Reg. No. RNP/GOA/32/2024-26

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Panaji, 30th July, 2024 (Sravana 8, 1946)

SERIES II No. 17

OFFICIAL GAZETTE

GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

EXTRAORDINARY

No. 2

GOVERNMENT OF GOA

Department of Finance

Office of the Commissioner of Commercial Taxes

No. CCT/26-4/2024-25/G/1608

Subject: Reduction of Government Litigation–fixing monetary limits for filing appeals or applications by the Department before GSTAT, High Courts and Supreme Court–reg.

Ref.: Circular No. 207/01/2024-GST dated 26th June, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular

(No. 01/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

ANNEXURE

Circular No. 207/1/2024-GST

F. No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

North Block, New Delhi
Dated the 26th June, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/
/Principal Commissioners/Commissioners of Central Tax (All)
The Principal Directors General/Directors General of Central Tax (All)

Madam/Sir,

Subject: Reduction of Government Litigation – fixing monetary limits for filing appeals or applications by the Department before GSTAT, High Courts and Supreme Court-reg.

Reference is invited to the National Litigation Policy which was conceived with the aim of optimizing the utilization of judicial resources and expediting the resolution of pending cases. It underscores the importance of prudent litigation practices by establishing thresholds for filing appeals in Revenue matters. Specifically, the Policy mandates that appeals should not be pursued when the amount involved is below a specified monetary limit set by Revenue authorities. Furthermore, it discourages filing appeals in cases where established precedents from Tribunals and High Courts have settled the matter and have not been contested in the Supreme Court.

1.1 Section 120 of the Central Goods and Services Tax Act, 2017 (hereinafter referred as "the CGST Act") provides for power to the Central Board of Indirect Taxes & Customs (hereinafter referred to as "the Board") for fixing the monetary limits for filing of appeal or application by the tax authorities as below:

"120. Appeal not to be filed in certain cases.—

(1) The Board may, on the recommendations of the Council, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal or application by the officer of the central tax under the provisions of this Chapter.

(2) Where, in pursuance of the orders or instructions or directions issued under sub-section (1), the officer of the central tax has not filed an appeal or application against any decision or order passed under the provisions of this Act, it shall not preclude such officer of the central tax from filing appeal or application in any other case involving the same or similar issues or questions of law.

(3) Notwithstanding the fact that no appeal or application has been filed by the officer of the central tax pursuant to the orders or instructions or directions issued under sub-section (1), no person, being a party in appeal or application shall contend that the officer of the central tax has acquiesced in the decision on the disputed issue by not filing an appeal or application.

(4) The Appellate Tribunal or court hearing such appeal or application shall have regard to the circumstances under which appeal or application was not filed by the officer of the central tax in pursuance of the orders or instructions or directions issued under sub-section (1)."

2. Accordingly, in exercise of the powers conferred by Section 120 of the CGST Act read with Section 168 of the CGST Act, the Board, on the recommendations of the GST Council, fixes the following monetary limits below which appeal or application or Special Leave Petition, as the case may be, shall

not be filed by the Central Tax officers before Goods and Service Tax Appellate Tribunal (GSTAT), High Court and Supreme Court under the provisions of CGST Act, subject to the exclusions mentioned in para 4 below:

Appellate Forum	Monetary Limit (amount involved in Rs.)
GSTAT	20,00,000/-
High Court	1,00,00,000/-
Supreme Court	2,00,00,000/-

3. While determining whether a case falls within the above monetary limits or not, the following principles are to be considered:

 i. Where the dispute pertains to demand of tax (with or without penalty and/or interest), the aggregate of the amount of tax in dispute (including CGST, SGST/UTGST, IGST and Compensation Cess) only shall be considered while applying the monetary limit for filing appeal.

 ii. Where the dispute pertains to demand of interest only, the amount of interest shall be considered for applying the monetary limit for filing appeal.

 iii. Where the dispute pertains to imposition of penalty only, the amount of penalty shall be considered for applying the monetary limit for filing appeal.

 iv. Where the dispute pertains to imposition of late fee only, the amount of late fee shall be considered for applying the monetary limit for filing appeal.

 v. Where the dispute pertains to demand of interest, penalty and/or late fee (without involving any disputed tax amount), the aggregate of amount of interest, penalty and late fee shall be considered for applying the monetary limit for filing appeal.

 vi. Where the dispute pertains to erroneous refund, the amount of refund in dispute (including CGST, SGST/UTGST, IGST and Compensation Cess) shall be considered for deciding whether appeal needs to be filed or not.

 vii. Monetary limit shall be applied on the disputed amount of tax/interest/penalty/late fee, as the case may be, in respect of which appeal or application is contemplated to be filed in a case.

 viii. In a composite order which disposes more than one appeal/demand notice, the monetary limits shall be applicable on the total amount of tax/interest/penalty/late fee, as the case may be, and not on the amount involved in individual appeal or demand notice.

4. EXCLUSIONS

Monetary limits specified above for filing appeal or application by the department before GSTAT or High Court and for filing Special Leave Petition or appeal before the Supreme Court shall be applicable in all cases, except in the following circumstances where the decision to file appeal shall be taken on merits irrespective of the said monetary limits:

i. Where any provision of the CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act has been held to be *ultra vires* to the Constitution of India; or

ii. Where any Rules or regulations made under CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act have been held to be *ultra vires* the parent Act; or

iii. Where any order, notification, instruction, or circular issued by the Government or the Board has been held to be *ultra vires* of the CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act or the Rules made thereunder; or

iv. Where the matter is related to–

a. Valuation of goods or services; or

b. Classification of goods or services; or

c. Refunds; or

d. Place of Supply; or

e. Any other issue,

which is recurring in nature and/or involves interpretation of the provisions of the Act/the Rules/notification/circular/order/instruction etc; or

v. Where strictures/adverse comments have been passed and/or cost has been imposed against the Government/Department or their officers; or

vi. Any other case or class of cases, where in the opinion of the Board, it is necessary to contest in the interest of justice or revenue.

5. It is pertinent to mention that an appeal should not be filed merely because the disputed tax amount involved in a case exceeds the monetary limits fixed above. Filing of appeal in such cases is to be decided on merits of the case. The officers concerned shall keep in mind the overall objective of reducing unnecessary litigation and providing certainty to taxpayers on their tax assessment while taking a decision regarding filing an appeal.

6. Attention is drawn to sub-sections (2), (3) & (4) of Section 120 of the CGST Act, which provide that in cases where it is decided not to file appeal in pursuance of these instructions, such cases shall not have any precedent value. In such cases, the Reviewing Authorities shall specifically record that "*even though the decision is not acceptable, appeal is not being filed as the amount involved is less than the monetary limit fixed by the Board.*"

6.1 Non-filing of appeal based on the above monetary limits, shall not preclude the tax officer from filing appeal or application in any other case involving the same or similar issues in which the tax in dispute exceeds the monetary limit or case involving the questions of law.

6.2 Further, it is re-iterated that in such cases where appeal is not filed solely on the basis of the above monetary limits, there will be no presumption that the Department has acquiesced in the decision on the disputed issues in the case of same tax payers or in case of any other taxpayers. Accordingly, in case any prior order is being cited or relied upon by the taxpayer, claiming that the same has been accepted by the Department, it must be checked as to whether such order was accepted only on account of the monetary limit before following them in the name of judicial discipline.

6.3 Also, in respect of such cases where no appeal is filed based on the monetary limit, the Departmental representatives/counsels must make every effort to bring to the notice of the GSTAT or the Court, as the case may be, that the appeal in such cases was not filed only for the reason of the amount of the tax in dispute being less than the specified monetary limit and, therefore, no inference shall be drawn that the decisions rendered therein were acceptable to the Department. Accordingly, they should draw the attention of the GSTAT or the Court towards the provisions of sub-section (4) of Section 120 of the CGST Act, 2017 as reproduced in para 1.1 above.

7. The above may be brought to the notice of all concerned.

8. Difficulties, if any, in implementation of this circular may be informed to the Board (gst-cbec@gov.in).

9. Hindi version will follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

No. CCT/26-4/2024-25/G/1609

Subject: Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities as per Notification No. 04/2024-Central Tax dated 05-01-2024-reg.

Ref.: Circular No. 208/02/2024-GST dated 26th June, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular

(No. 02/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

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ANNEXURE

Circular No. 208/2/2024-GST

F.No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs
GST Policy Wing

North Block, New Delhi
Dated the 26th June, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
/Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)

Madam/Sir,

Subject: Clarifications on various issues pertaining to special procedure for the manufacturers of the specified commodities as per Notification No. 04/2024-Central Tax dated 05-01-2024–reg.

Based on the recommendation of 50th GST Council meeting, a special procedure was notified vide Notification No. 30/2023-Central Tax dated 31-07-2023 to be followed by the registered persons engaged in manufacturing of goods mentioned in the schedule to the said notification. The said notification has

been rescinded vide Notification No. 03/2024-Central Tax dated 05-01-2024 and a revised special procedure has been notified vide Notification No. 04/2024-Central Tax dated 05-01-2024.

2. Representations have been received from various trade associations seeking clarity on some issues pertaining to the said special procedure. To ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by Section 168 (1) of the Central Goods & Services Tax Act, 2017 (hereinafter referred to as the "CGST Act"), hereby clarifies various issues as under:

S. No.	Issued raised by Trade	Clarification on the issue
1	2	3
1.	*Non availability of make, model number and machine number-* The trade bodies have raised the issue that some of the manufacturers of the said goods are using very old packing machines since decades including second hand machines. Therefore, the details of make, model number and machine number of these machines are not readily available.	It is clarified that in Table 6 of FORM GST SRM-I as notified vide Notification No. 04/2024-CT dated 05-01-2024, make and model number are optional. However, where make of the machine is not available, the year of purchase of the machine may be declared as the make number. It is also clarified that the machine number is a mandatory field in Table 6 of FORM GST SRM-I to be filled up by the manufacturer. If the machine number is not available either on the machine or as per the available documents/records, then the manufacturer may assign any numeric number to the said machine and provide the details of the same in Table 6 of FORM GST SRM-I.
2.	In cases where the electricity consumption rating of the packing machine is not available in the specifications of the said machine or in the documents/record of the same, then how to declare the electricity consumption rating of the said machine in Table 6 of FORM GST SRM-I?	It is clarified that electricity consumption rating of the packing machine is to be declared in Table 6 of FORM GST SRM-I on the basis of details of the same as available either on the machine or in the documents/record of the said machine. However, if the same is not available either on the machine or in the documents/records, then the manufacturer may get such electricity consumption per hour of the said machine calculated through a Chartered Engineer and get the same certified by the said Chartered Engineer in the format prescribed in FORM GST SRM-III, as notified vide Notification No. 04/2024-CT dated 05-01-2024. The said electricity consumption rating can be declared in Table 6 of FORM GST SRM-I accordingly. The copy of such certificate of the Chartered Engineer needs to be uploaded along with FORM GST SRM-I. The details of the documents so uploaded needs to be provided in Table 10 of the said form. It is also clarified that in cases where there are certificates of Chartered Engineer for more than one machine, then all such certificates may be uploaded in a single PDF file.

1	2	3
3.	Which value has to be reported in Column 8 of Table 9 of FORM GST SRM-II in case of goods having no MRP, for example, goods manufactured for export market?	In cases where there is no MRP of the package, then the sale price of the goods so manufactured shall be entered in Column 8 of Table 9 of FORM GST SRM-II as notified vide Notification No. 04/2024-CT dated 05-01-2024.
4.	What should be the qualification and eligibility of the Chartered Engineer for providing Chartered Engineer certificate under the special procedure notified vide Notification No. 04/2024-CT dated 05-01-2024?	It is clarified that a Practicing Chartered Engineer having a certificate of practice from the Institute of Engineers India (IEI) is qualified to provide Chartered Engineer certificate under the special procedure notified vide Notification No. 04/2024-CT dated 05-01-2024.
5.	Whether the special procedure notified vide Notification No. 04/2024-CT dated 05-01-2024 is applicable to the manufacturing units located in Special Economic Zone (SEZ)?	It is clarified that the special procedure as notified vide Notification No. 04/2024-CT dated 05-01-2024 is not applicable to the manufacturing units located in Special Economic Zone.
6.	Whether the special procedure notified vide Notification No. 04/2024-CT dated 05-01-2024 is applicable to the manual processes using electric operated heat sealer and seamer?	It is clarified that the said special procedure notified vide Notification No. 04/2024-CT dated 05-01-2024 is not applicable in respect of manual seamer/sealer being used for packing operations. Further, it is also clarified that the said special procedure is not applicable in respect of manual packing operations such as those in cases of post-harvest packing of tobacco leaves.
7.	In cases where multiple machines are required for filling, capping and packing of containers, the serial number of which machine is required to be declared in Table 6 of FORM GST SRM-I?	It is clarified that in a manufacturing process there may be different machines being used such as one for filling of packages, another for putting seal on the packages and another for final packing. The detail of that machine is required to be reported in Table 6 of FORM GST SRM-I which is being used for final packing of the packages of the specified goods.
8.	In case of job work or contract manufacturing, which person shall be required to comply with the special procedure as notified vide Notification No. 04/2024-CT dated 05-01-2024?	It is clarified that the special procedure notified vide Notification No. 04/2024-CT dated 05-01-2024 shall be applicable to all persons involved in manufacturing process including a job worker/contract manufacturer. However, if the job worker/contract manufacturer is unregistered, then the liability to comply with the said special procedure will be of the concerned principal manufacturer.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

No. CCT/26-4/2024-25/G/1610

Subject: Clarification on the provisions of Clause (ca) of Section 10(1) of the Integrated Goods and Service Tax Act, 2017 relating to place of supply of goods to unregistered persons–reg.

Ref.: Circular No. 209/03/2024-GST dated 26th June, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular

(No. 03/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

ANNEXURE

Circular No. 209/3/2024-GST

F. No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

North Block, New Delhi
Dated the 26th June, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
/Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)

Madam/Sir,

Subject: Clarification on the provisions of Clause (ca) of Section 10(1) of the Integrated Goods and Service Tax Act, 2017 relating to place of supply of goods to unregistered persons–reg.

Vide Notification 02/2023-Integrated Tax dated 29th September, 2023, the provisions of the Integrated Goods and Services Tax (Amendment) Act, 2023 (31 of 2023) came into force with effect from 01-10-2023.

2. Clause (ca) has been inserted in Section 10(1) of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the "IGST Act") with effect from 01-10-2023. The same is reproduced as under:

"(ca) *where the supply of goods is made to a person other than a registered person, the place of supply shall, notwithstanding anything contrary contained in Clause (a) or Clause (c), be the location as per the address of the said person recorded in the invoice issued in respect of the said supply and the location of the supplier where the address of the said person is not recorded in the invoice.*

Explanation.— For the purposes of this clause, recording of the name of the State of the said person in the invoice shall be deemed to be the recording of the address of the said person;"

2.1 The said provision has been inserted as a non-obstante provision overriding the provisions under Section 10(1)(a) or 10(1)(c) of IGST Act. The Clause (ca) provides that where the supply of goods is made to an unregistered person, the place of supply would be the location as per the address of the said person recorded in the invoice and the location of the supplier where the address of the said person is not recorded in the invoice. An explanation has also been added to the said Clause to clarify that recording the name of the State of the said person shall be deemed to be the recording of the address of the said person.

3. Reference has been received from trade and industry seeking clarification regarding the place of supply in terms of newly added Clause (ca) of Section 10(1) of the IGST Act, in case of supply of goods made to an unregistered person where billing address is different from the address of delivery of goods, especially in the context of supply being made through e-commerce platforms.

4. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by Section 168 (1) of the Central Goods and Services Tax Act, 2017 hereby clarifies the issues as under:

S. No.	Issue	Clarification
1	2	3
Place of supply of goods (particularly being supplied through e-commerce platform) to unregistered persons where billing address is different from the address of delivery of goods.		
1.	Mr. A (unregistered person) located in X State places an order on an e-commerce platform for supply of a mobile phone, which is to be delivered at an address located in Y State. Mr. A, while placing the order on the e-commerce platform, provides the billing address located in X State. In such a scenario, what would be the place of supply of the said supply of mobile phone, whether the State pertaining to the billing address i.e. State X or the State pertaining to the delivery address i.e. State Y?	As per the provisions of Clause (ca) of sub-section (1) of Section 10 of IGST Act, where the supply of goods is made to an unregistered person, the place of supply would be the location as per the address of the said person recorded in the invoice and the location of the supplier where the address of the said person is not recorded in the invoice. Further, as per Explanation to the said Clause, recording the name of the State of the said unregistered person on the invoice shall be deemed to be the recording of the address of the said person. Accordingly, it is clarified that in such cases involving supply of goods to an unregistered person, where the address of delivery of goods recorded on the invoice is different from the billing address of the said unregistered person on the invoice, the place of supply of goods in accordance with the provisions of Clause (ca) of sub-section (1) of Section 10 of IGST Act, shall be the address of delivery of goods recorded on the invoice i.e. State Y in the present case where the delivery address is located. Also, in such cases involving supply of goods to an unregistered person, where the billing address

1	2	3
		and delivery address are different, the supplier may record the delivery address as the address of the recipient on the invoice for the purpose of determination of place of supply of the said supply of goods.

5. It is requested that suitable trade notices may be issued to publicize the contents of this Circular. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

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No. CCT/26-4/2024-25/G/1611

Subject: Clarification on valuation of supply of import of services by a related person where recipient is eligible to full input tax credit–reg.

Ref.: Circular No. 210/04/2024-GST dated 26th June, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular

(No. 04/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure**.**

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

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ANNEXURE

Circular No. 210/4/2024-GST

F. No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

North Block, New Delhi
Dated the 26th June, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
/Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)

Madam/Sir,

Subject: Clarification on valuation of supply of import of services by a related person where recipient is eligible to full input tax credit–Reg.

As per S. No. 4 of Schedule I of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act'), import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business, is to be treated as supply even if made without consideration.

2. Representations have been received from trade and industry stating that demands are being raised by some of the field formations against the registered persons seeking tax on reverse charge basis in respect of certain activities undertaken by their related persons based outside India, by considering the said activities as import of services by the registered person in India, based on an expansive interpretation of the deeming fiction in S. No. 4 of Schedule I of CGST Act, though no consideration is involved in the said activities and the same are not considered as supplies by the said related person in India. It has been represented that the same treatment, which is being given to domestic related parties/ distinct persons as per clarification provided by Circular No. 199/11/2023-GST dated 17-07-2023, may also be provided in cases where a foreign entity is providing service to its related party located in India, in cases where full ITC is available to the said recipient located in India.

3.1 In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by Section 168 (1) of the CGST Act, hereby clarifies the issues as under:

3.2 Rule 28 of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the 'CGST Rules') is reproduced as below:

"Rule 28.Value of supply of goods or services or both between distinct or related persons, other than through an agent.—

(1) The value of the supply of goods or services or both between distinct persons as specified in sub-section (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, shall–

(a) be the open market value of such supply;

(b) if the open market value is not available, be the value of supply of goods or services of like kind and quality;

(c) if the value is not determinable under clause (a) or (b), be the value as determined by the application of rule 30 or rule 31, in that order:

Provided that where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person:

Provided further that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services.

…"

3.3 As per second proviso to Rule 28(1) of CGST Rules, in cases involving supply of goods or services or both between the distinct or related persons where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the said goods or services.

3.4 It may be noted that vide Circular No. 199/11/2023-GST dated 17-07-2023, clarification has been issued regarding taxability of services provided by an office of an organisation in one State to the office of that organisation in another State, both being distinct persons. It has been clarified in the said circular that as per the second proviso to Rule 28(1) of CGST Rules, in respect of supply of services by Head Office (HO) to Branch Offices (BO) of an organisation, the value of the said supply of services declared in the invoice by HO shall be deemed to be open market value of such services, if the recipient BO is eligible for full input tax credit. It has also been clarified vide the said circular that in cases where full

input tax credit is available to the recipient, if HO has not issued a tax invoice to the BO in respect of any particular services being rendered by HO to the said BO, the value of such services may be deemed to be declared as Nil by HO to BO, and may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules.

3.5 The second proviso to Rule 28 (1) of CGST Rules, is applicable in all the cases involving supply of goods or services or both between the distinct persons as well as the related persons, in cases where full ITC is available to the recipient. Accordingly, it is evident that the clarification which has been issued vide Circular No. 199/11/2023-GST dated 17-07-2023 in respect of supplies of services between distinct persons in cases where full ITC is available to the recipient, is equally applicable in respect of import of services between related persons.

3.6 In case of import of services by a registered person in India from a related person located outside India, the tax is required to be paid by the registered person in India under reverse charge mechanism. In such cases, the registered person in India is required to issue self-invoice under Section 31(3)(f) of CGST Act and pay tax on reverse charge basis.

3.7 In view of the above, it is clarified that in cases where the foreign affiliate is providing certain services to the related domestic entity, and where full input tax credit is available to the said related domestic entity, the value of such supply of services declared in the invoice by the said related domestic entity may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules. Further, in cases where full input tax credit is available to the recipient, if the invoice is not issued by the related domestic entity with respect to any service provided by the foreign affiliate to it, the value of such services may be deemed to be declared as Nil, and may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules.

4. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

5. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

No. CCT/26-4/2024-25/G/1612

Subject: Clarification on time limit under Section 16(4) of CGST Act, 2017 in respect of RCM supplies received from unregistered persons–reg.

Ref.: Circular No. 211/05/2024-GST dated 26th June, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular

(No. 05/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

ANNEXURE

Circular No. 211/5/2024-GST

F. No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

North Block, New Delhi
Dated the 26th June, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
/Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)

Madam/Sir,

Subject: Clarification on time limit under Section 16(4) of CGST Act, 2017 in respect of RCM supplies received from unregistered persons–reg.

Representations have been received from trade and industry seeking clarity on the applicability of time limit specified under section 16(4) of Central Goods & Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") for the purpose of availment of input tax credit (ITC) by the recipient on the tax paid by him under Reverse Charge Mechanism (RCM) in respect of supplies received from unregistered persons. It has been represented that in some cases, where tax is payable on reverse charge basis by the recipient, such as, where an activity is performed by the overseas related person for the entity located in India and no consideration is involved, such an activity may not be considered as supply of services by the concerned recipient in India and accordingly, no invoice is issued as well as no tax is paid by the said recipient under RCM in respect of the same. However, later on, either on their own on the basis of some clarification issued by the department or on the basis of some court judgement or on being pointed out by the tax authorities during scrutiny or audit or otherwise, the said recipient issues the invoice and pays the tax under RCM, along with interest, and claims input tax credit on such tax paid.

1.2 It has been represented that some of the field formations are taking the view that in such cases, the relevant year of the invoice for the purpose of Section 16(4) of CGST Act is the year in which the said supply was received and accordingly, the time limit for availment of ITC under Section 16(4) of CGST Act is only upto the September/November of the following financial year, i.e. the financial year following the financial year in which the said services was received. On the other hand, industry has represented that as the invoice in respect of such supplies received from unregistered supplier, where tax has to be paid by the recipient on RCM basis, is to be issued by the recipient as per Section 31(3)(f) of CGST Act, the relevant year of invoice for the purpose of Section 16(4) of CGST Act is the financial year in which such invoice has been issued and accordingly, ITC should be available on the said invoice under Section 16(4) of CGST Act till the September/November of the financial year following the financial year in which such invoice has been issued. Request has been made to issue clarification in the matter to avoid litigation.

2. The matter has been examined. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act, hereby clarifies the issue as follows.

2.1 As per Section 16(2)(a) of CGST Act, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless he is in possession of a tax

invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed.

2.2 Rule 36(1)(b) of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) prescribes that input tax credit shall be availed by a registered person *inter alia* on the basis of an invoice issued in accordance with the provisions of Clause (f) of sub-section (3) of Section 31 of CGST Act, subject to the payment of tax.

2.3 Further, Clause (f) of sub-section (3) of Section 31 of CGST Act provides that a registered person, who is liable to pay tax under sub-section (3) or sub-section (4) of section 9, shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both. Accordingly, where the supplier is unregistered and recipient is registered, and the recipient is liable to pay tax on the said supply on RCM basis, the recipient is required to issue invoice as per Section 31(3)(f) of CGST Act and pay the tax in cash on the same under RCM.

2.4 Section 16(4) of CGST Act, as amended vide the Finance Act, 2022, deals with time limit to avail ITC, and is reproduced below-

"A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the thirtieth day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier."

Section 16(4) of CGST Act, before the said amendment vide the Finance Act, 2022, provided as follows:

"A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier."

2.5 It can be seen that section 16(4) of CGST Act links the time limit for ITC availment with the financial year to which the invoice or debit note pertains. As discussed in Para 2.3 above, in case of supplies where the supplier is unregistered and recipient is registered and the tax has to be paid by the recipient on RCM basis, the recipientis required to issue invoice in terms of the provisions of Section 31(3)(f) of CGST Act and pay the tax on the same in cash under RCM. Further, as discussed in Para 2.1 above, ITC cannot be availed by a registered person in respect of any supply of goods or services or both received by him, as per the provisions of Section 16(2)(a) of CGST Act, unless he is in possession of a tax invoice or debit note or such other tax paying documents as may be prescribed.

2.6 A combined reading of the above provisions leads to a conclusion that as ITC can be availed by the recipient only on the basis of invoice or debit note or other duty paying document, and as in case of RCM supplies received by the recipient from unregistered supplier, invoice has to be issued by the recipient himself, the relevant financial year, to which invoice pertains, for the purpose of time limit for availment of ITC under Section 16(4) of CGST Act in such cases shall be the financial year of issuance of such invoice only. In cases, where the recipient issues the said invoice after the time of supply of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax.

2.7 Accordingly, it is clarified that in cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under Reverse Charge Mechanism (RCM) and where invoice is to be issued by the recipient of the supplies in accordance with Section 31(3)(f) of CGST Act, the relevant financial year for calculation of time limit for availment of input tax credit under the provisions of Section 16(4) of CGST Act will be the financial year in which the invoice has been issued by the recipient under Section 31(3)(f) of CGST Act, subject to payment of tax on the said supply by the recipient and fulfilment

of other conditions and restrictions of section 16 and 17 of CGST Act. In case, the recipient issues the invoice after the time of supply of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax. Further, in cases of such delayed issuance of invoice by the recipient, he may also be liable to penal action under the provisions of Section 122 of CGST Act.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

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No. CCT/26-4/2024-25/G/1613

Subject: Clarification on mechanism for providing evidence of compliance of conditions of Section 15(3)(b)(ii) of the CGST Act, 2017 by the suppliers–reg.

Ref.: Circular No. 212/06/2024-GST dated 26th June, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular
(No. 06/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

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ANNEXURE

Circular No. 212/6/2024-GST

F.No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs
GST Policy Wing

North Block, New Delhi
Dated the 26th June, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)

Madam/Sir,

Subject: Mechanism for providing evidence of compliance of conditions of Section 15(3)(b)(ii) of the CGST Act, 2017 by the suppliers–reg.

In cases where the discounts are offered by the suppliers through tax credit notes, after the supply has been effected, the said discount is not to be included in the taxable value only if the condition of clause (b)(ii) of sub-section (3) of section 15 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), for reversal of the input tax credit attributable to the said discount by the recipient, is satisfied. Representations have been received from the trade and the field formations mentioning that there is presently no facility available to the supplier as well as the tax officers on the common portal to verify whether the input tax credit attributable to the said discount has been reversed by the recipient or not. Request has been made to provide a suitable mechanism for enabling the suppliers as well as tax officers to verify fulfilment of the condition of section 15(3)(b)(ii) of the CGST Act regarding proportionate reversal of input tax credit by the recipients in respect of such discounts given by the supplier by issuing tax credit notes after the supply has been effected.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the issues as under:

2.1 Section 15 of the CGST Act provides for value of taxable supply of goods or services or both. Sub-section (3) of the said section provides that the value of supply shall not include discount given by the supplier, subject to certain conditions. As per clause (b) of the said sub-section, any discount which is given after the supply has been effected shall not be included in the value of the supply, only if it satisfies the following conditions:

i. Such discount is established in terms of an agreement entered into at or before the time of such supply;

ii. Such discount must be specifically linked to the relevant invoices

iii. Input Tax Credit attributable to such discount on the basis of document issued by the supplier has been duly reversed by the recipient.

2.2 Accordingly, wherever any discount is offered by the supplier to the recipient, by issuance of a tax credit note as per section 34 of the CGST Act, after the supply has been effected, the said discount can be excluded from the value of taxable supply only if the conditions of clause (b) of sub-section (3) of section 15 of the CGST Act are fulfilled. Such conditions interalia includes the requirement of reversal of input tax credit by the recipient attributable to the said discount.

2.3 However, there is no system functionality/facility presently available on the common portal to enable the supplier or the tax officer to verify the compliance of the said condition of proportionate reversal of input tax credit by the recipient.

2.4 In view of the above, till the time a functionality/facility is made available on the common portal to enable the suppliers as well as the tax officers to verify whether the input tax credit attributable to such discounts offered through tax credit notes has been reversed by the recipient or not, the supplier may procure a certificate from the recipient of supply, issued by the Chartered Accountant (CA) or the Cost Accountant (CMA), certifying that the recipient has made the required proportionate reversal of input tax credit at his end in respect of such credit note issued by the supplier.

2.5 The said CA/CMA certificate may include details such as the details of the credit notes, the details of the relevant invoice number against which the said credit note has been issued, the amount of ITC reversal in respect of each of the said credit notes along with the details of the FORM GST DRC-03/ return /any other relevant document through which such reversal of ITC has been made by the recipient.

2.6 Such certificate issued by CA or CMA shall contain UDIN (Unique Document Identification Number). UDIN of the certificate issued by CAs can be verified from ICAI website

https://udin.icai.org/search-udin and that issued by CMAs can be verified from ICMAI website https://eicmai.in/udin/VerifyUDIN.aspx.

2.7 In cases, where the amount of tax (CGST+SGST+IGST and including compensation cess, if any) involved in the discount given by the supplier to a recipient through tax credit notes in a Financial Year is not exceeding Rs 5,00,000 (rupees five lakhs only), then instead of CA/CMA certificate, the said supplier may procure an undertaking/certificate from the said recipient that the said input tax credit attributable to such discount has been reversed by him, along with the details mentioned in Para 2.5 above.

2.8 Such certificates issued by the CA/CMA or the undertakings/certificates issued by the recipient of supply, as the case may be, shall be treated as a suitable and admissible evidence for the purpose of section 15(3)(b)(ii) of the CGST Act, 2017. The supplier shall produce such certificates/undertakings before the tax officers, if required, during any proceedings such as scrutiny, audit, investigations, etc. Even for the past period, whereever any such evidence as per Section 15(3)(b)(ii) of CGST Act in respect of credit note issued by the supplier for post-sale discounts is required to be produced by him to the tax authorities, the concerned taxpayer may procure and provide such certificates issued by CA/CMA or the undertakings certificates issued by the recipients of supply, as the case may be, to the concerned investigating/audit/adjudicating authority as evidence of requisite reversal of input tax credit by his recipients.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

CCT/26-4/2024-25/G/1614

Subject: Clarification on the taxability of ESOP/ESPP/RSU provided by a company to its employees through its overseas holding company–reg.

Ref.: Circular No. 213/07/2024-GST dated 26th June, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular
(No. 07/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

ANNEXURE

Circular No. 213/07/2024-GST

F. No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs
GST Policy Wing

North Delhi, New Delhi
Dated the 26th June, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
/Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)

Madam/Sir,

Subject: Clarification on the taxability of ESOP/ESPP/RSU provided by a company to its employees through its overseas holding company–reg.

Representations have been received from the trade and field formations seeking clarification regarding the taxability of Employee Stock Option (ESOP)/Employee Stock Purchase Plan (ESPP)/ Restricted Stock Unit (RSU) provided by a company to its employees.

2.1 It has been represented that some of the Indian companies provide the option to their employees for allotment of securities/shares of their foreign holding company as part of the compensation package as per terms of contract of employment. In such cases, on exercising the option by the employees of Indian subsidiary company, the securities/shares of foreign holding company are allotted directly by the holding company to the concerned employees of Indian subsidiary company, and the cost of such securities/shares is generally reimbursed by the subsidiary company to the holding company.

2.2 Doubts are being raised regarding taxability of such a transaction under GST, i.e. whether such transfer of shares/securities by the foreign holding company directly to the employees of the Indian subsidiary company and subsequent re-imbursement of the cost of such shares/securities by the Indian subsidiary company to the foreign holding company can be considered as import of financial services by the Indian subsidiary company from the foreign holding company and whether the same can be considered as liable to GST in the hands of Indian subsidiary company on reverse charge basis.

3. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues as under.

4. The companies are providing option of allotment of securities/shares to their employees as a means of incentivization and the same is commonly referred to as an Employee Stock Purchase Plan (ESPP) or Employee Stock Option Plan (ESOP) or Restricted Stock Unit (RSU). Such specific terminology usage depends on the agreed-upon compensation terms between the employer and the employee. ESPPs and ESOPs are typically presented as 'options' granted to employees, whereas RSUs take the form of awards or rewards contingent upon the employee meeting specific performance standards. Regardless of the terminology used, the fundamental essence of the transaction remains the same i.e. the allocation of securities or shares from the employer to employee as part of compensation package with the aim of motivating enhanced performance.

4.1 A transaction involving transfer of ESOP/ESPP/RSU to the employees of domestic subsidiary by the foreign holding company appears to involve the following steps:

- The domestic subsidiary company gives option/facility of ESOP/ESPP/RSU to its employees as part of compensation package as per terms of employment.

- The employees exercise their stock options, either by purchasing shares at the grant price or by holding the options until they vest.
- The foreign holding company of the domestic subsidiary company issues ESOP/ESPP/RSU, which are securities/shares listed on the foreign stock exchange, to the employees of the domestic subsidiary company.
- The foreign holding company transfers the shares directly to the employees of the subsidiary company.
- The domestic subsidiary company generally reimburses the cost of such shares to the foreign holding company on cost-to cost basis either through an actual remittance or through an equity transfer as prescribed by the relevant Indian Accounting Standard.
- The employees hold the shares and may sell them at a later date, if they so choose.

4.2 The foreign holding company issues securities/shares as ESOP/SPP/RSU to the employees of the domestic subsidiary company on the request of the said domestic subsidiary company. However, Securities under GST Law are considered neither goods nor services in terms of definition of "goods" under clause (52) of section 2 of CGST Act and in terms of definition of "services" under clause (102) of the said section. Further, securities include 'shares' as per definition of "securities" under clause (h) of section 2 of Securities Contracts (Regulation) Act, 1956. Accordingly, purchase or sale of securities/shares, in itself, is neither a supply of goods nor a supply of services. Therefore, in the absence of such transaction, falling under the supply of 'goods' or 'services' as per GST Act, GST is not leviable on said transaction of sale/purchase/transfer of securities/shares.

4.3 Further, the companies offer ESOP/ESPP/RSU to their employees to motivate them to perform better, and to retain the employees, by aligning the interest of employees with that of company. The ESOP/ESPP/RSU is a part of remuneration of the employee by the employer as per terms of employment. As per Entry 1 of Schedule III of the CGST Act, the services by an employee to the employer in the course of or in relation to his employment are treated neither as supply of goods nor as supply of services. Therefore, GST is not leviable on the compensation paid to the employee by the employer as per the terms of employment contract which involve transfer of securities/shares of the foreign holding company to the employees of domestic subsidiary company.

4.4 The foreign holding company directly transfers the shares/securities to the employees of the domestic subsidiary company on the request of the said domestic subsidiary company. Reimbursement of such securities/shares is generally done by domestic subsidiary company to foreign holding company on cost-to-cost basis i.e. equal to the market value of securities without any element of additional fee, markup or commission. Since the said reimbursement by the domestic subsidiary company to the foreign holding company is for transfer of securities/shares, which is neither in nature of goods nor services, the same cannot be treated as import of services by the domestic subsidiary company from the foreign holding company and hence, is not liable to GST under CGST Act.

4.5 However, if the foreign holding company charges any additional fee, markup, or commission from the domestic subsidiary company for issuing ESOP/ESPP/RSU to the employees of the domestic subsidiary company, then the same shall be considered to be in nature of consideration for the supply of services of facilitating/arranging the transaction in securities/shares by the foreign holding company to the domestic subsidiary company. In this case, GST will be leviable on such amount of the additional fee, markup, or commission, charged by the foreign holding company from the domestic subsidiary for issuance of its securities/shares to the employees of the latter. The GST shall be payable by the domestic holding company on reverse charge basis on such import of services from the foreign holding company.

4.6 Accordingly, it is clarified that no supply of service appears to be taking place between the foreign holding company and the domestic subsidiary company where the foreign holding company issues ESOP/ESPP/RSU to the employees of domestic subsidiary company, and the domestic subsidiary company reimburses the cost of such securities/shares to the foreign holding company on cost-to-cost basis. However, in cases where an additional amount over and above the cost of securities/shares is

charged by the foreign holding company from the domestic subsidiary company, by whatever name called, GST would be leviable on such additional amount charged as consideration for the supply of services of facilitating/arranging the transaction in securities/shares by the foreign holding company to the domestic subsidiary company. The GST shall be payable by the domestic subsidiary company on reverse charge basis in such a case on the said import of services.

5. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

6. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

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No. CCT/26-4/2024-25/G/1615

Subject: Clarification on the requirement of reversal of input tax credit in respect of the portion of the premium for life insurance policies which is not included in taxable value–reg.

Ref.: Circular No. 214/08/2024-GST dated 26th June, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular

(No. 08/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

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ANNEXURE

Circular No. 214/8/2024-GST

F. No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs
GST Policy Wing

North Block, New Delhi
Dated the 26th June, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/
Principal Commissioners/Commissioners of Central Tax (All)
The Principal Directors General/ Directors General (All)

Madam/Sir,

Subject: Clarification on the requirement of reversal of input tax credit in respect of the portion of the premium for life insurance policies which is not included in taxable value-reg.

Representations have been received from the trade and field formations seeking clarification on the issue as to whether the amount of insurance premium, which is not included in the taxable value as per Rule 32(4) of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") applicable for life insurance business, will be treated as pertaining to an exempt supply/non-taxable supply and whether the input tax credit availed in respect of such amount shall be required to be reversed or not.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act"), hereby clarifies the issues as under:

S. No.	Issue	Clarification
1	2	3
1.	Whether the amount of insurance premium, which is not included in the taxable value as per Rule 32(4) of CGST Rules applicable for life insurance business, shall be treated as pertaining to a non-taxable supply/exempt supply for the purpose of reversal of Input tax credit as per section 17(1) of CGST Act read with Rule 42 & 43 of CGST Rules.	'Life insurance business' has been defined in Section 2(11) of the Insurance Act, 1938 as below: *"2(11) life insurance business means the business of effecting contracts of insurance upon human life, including any contract whereby the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, and any contract which is subject to payment of premiums for a term dependent on human life and shall be deemed to include–* *(a) the granting of disability and double or triple indemnity accident benefits, if so provided in the contract of insurance,* *(b) the granting of annuities upon human life; and* *(c) the granting of superannuation allowances and benefit payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment or of the dependents of such persons;* *Explanation.— For the removal of doubts, it is hereby declared that life insurance business shall include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment and a component of insurance issued by an insurer referred to in clause (9) of this section.* 2. Life insurance companies are providing service of insuring the life of the insured and in return, are charging consideration in the form of premium from the insured. A number of life insurance companies are providing policies which may consist of a component of investment in addition to the component for the risk cover of the life insurance and

1	2	3
		accordingly, in such cases, the premium charged also includes the component which is allocated for investment or saving on behalf of the policy holder. As per definition of 'Life insurance business' provided in Section 2(11) of the Insurance Act, 1938, life insurance business includes any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment and a component of insurance issued by an insurer. Accordingly, such life insurance policies, which also include a component of investment along with the component of risk cover for life insurance, are also covered under life insurance business. 2.1 It is mentioned that value of supply of services in relation to life insurance business is to be determined as per provisions of sub-rule (4) of rule 32 of CGST Rules. The said sub-rule provides that the value of supply of services in respect of life insurance business is primarily to be determined by deducting the amount of premium allocated for investment/savings on behalf of the policy holder from the gross premium charged from the policy holder. The said sub-rule also provides for determination of value of supply of such services based on certain percentage of the gross premium in other situations. However, where the entire premium is only towards the risk cover in life insurance, the value of supply is not required to be determined under the said sub-rule as in such cases whole of the consideration i.e. gross premium is towards life insurance services. 2.2 As per section 2(47) of the CGST Act, exempt supply means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the "IGST Act"), and includes non-taxable supply. The said definition of exempt supply has the following three limbs:— (a) Supply of service which is nil rated; (b) Supply of service which is wholly exempted from tax under section 11 of CGST Act or under Section 6 of IGST Act; or (c) Supply of service which is non-taxable supply. 2.2.1. Further, as per section 2(78) of CGST Act, non-taxable supply means a supply of goods or services or both which is not leviable to tax under the CGST Act or under the IGST Act. 2.2.2 It is mentioned that there is no doubt about taxability of supply of service of providing life insurance services by the insurance company to the insured/policy holder but the only issue is regarding the treatment of the amount of premium which is not included in the taxable value of supply, as determined under the provisions of Rule 32(4) of CGST Rules. The service of providing life insurance cover is neither nil rated, nor there is any notification issued under section 11 of CGST Act by virtue of which the said service or any portion of the said service has been exempted from GST. 2.2.3 It is also mentioned that the supply can be considered as a non-taxable supply only when it is not leviable to tax

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		under the CGST Act or under the IGST Act. It is not a case where the tax is not leviable on the supply of life insurance services provided by life insurance companies to the insured/policy holder. The value of the said supply of service in respect of life insurance business as determined under Rule 32(4) of CGST Rules, 2017 may not include some portion of gross premium as per methodology provided in the said rule. This portion of premium which is not includible in taxable value as per provisions of Rule 32(4) of CGST Rules is neither nil rated, nor wholly exempted from tax under section 11 of CGST Act and also not a non-taxable supply. Therefore, just because some amount of consideration is not included in value of taxable supply as per the provisions of the statute, it cannot be said that the said portion of consideration becomes attributable to a non-taxable or exempt supply. 2.2.4 Further, Rule 42 of the CGST Rules provides for reversal of input tax credit in certain scenarios. As per the said rule, only that input tax credit which attract the provisions of sub-section (1) and sub-section (2) of Section 17 of the CGST Act needs to be determined and reversed thereof. Further, sub-section (1) and sub-section (2) of Section 17 of the CGST Act restrict the amount of credit only in a case where the registered person uses the goods or services partly for business or other purposes or partly for making taxable supplies or exempt supplies. However, as discussed in Para 2.2.3 above, the portion of premium, which is not includible in taxable value of supply as per Rule 32(4) of CGST Rules, cannot be considered as pertaining to an exempt supply. 3. In view of this, it is clarified that the amount of the premium for taxable life insurance policies, which is not included in the taxable value as determined under rule 32(4) of CGST Rules, cannot be considered as pertaining to a non-taxable or exempt supply and therefore, there is no requirement of reversal of input tax credit as per provisions of Rule 42 or rule 43 of CGST Rules, read with sub-section (1) and sub-section (2) of Section 17 of CGST Act, in respect of the said amount.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

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No. CCT/26-4/2024-25/G/1616

Subject: Clarification on taxability of salvage/wreck value earmarked in the claim assessment of the damage caused to the motor vehicle-reg.

Ref.: Circular No. 215/09/2024-GST dated 26th June, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular
(No. 09/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

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ANNEXURE

Circular No. 215/9/2024-GST

F.No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs
GST Policy Wing

North Block, New Delhi
Dated the 26th June, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
/Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)

Madam/Sir,

Subject: Clarification on taxability of salvage/wreck value earmarked in the claim assessment of the damage caused to the motor vehicle -reg.

The insurance companies, which are engaged in providing general insurance services in respect of insurance of motor vehicles, insure the cost of repairs/damages of motor vehicles incurred by the policyholders. Such damages to the insured vehicle are classified in two categories:

i. Total Loss/Constructive Total Loss or Cash Loss; and

ii. Partial Loss Situation

1.1 Representations have been received from the trade and field formations seeking clarification as to whether in case of motor vehicle insurance, GST is payable by the insurance company on salvage/wreckage value earmarked in the claim assessment of the damage caused to the motor vehicle.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues as under:

S. No.	Issue	Clarification

1	2	3
1.	Whether the insurance company is liable to pay GST on the salvage/wreckage value earmarked in the claim assessment of the damage caused to the motor vehicle?	Under GST law, supply is the relevant taxable event for levying tax. For an activity/transaction to be liable to GST, existence of 'supply' as defined under section 7 of CGST Act should be there. 2.1 Section 7 of CGST Act defines supply to mean *'all forms of supply of goods or services or both made or agreed to be made for a consideration by a person in the course or furtherance of business.'* In the instant case, insurance companies are providing service of insuring the vehicle/automobile for any damages and in return, charging consideration in the form of premium charged from the owner of the vehicle. It is also noted that in respect of insurance services being provided by the insurance companies, it is the responsibility of the insurance company to get the damaged vehicle repaired or to compensate the insured person against the damage caused to the vehicle, to the extent covered under the terms of the insurance. 2.2 Any Deduction made by the insurance company from the final claim amount paid to the insured is in the form of deductibles which is pre-decided and mutually agreed by the insured and the insurer while signing the insurance contract. In cases where as per the policy contract, the insurance company's liability to pay the insured is limited to Insured's Declared Value (IDV) of the vehicle less the value of salvage/wreck in cases of total loss to the vehicle, if the insurance claim is settled by the insurance company as per the terms of the insurance contract by deducting value of salvage/wreckage from the claim settlement amount, the salvage/wreckage does not become property of insurance company, and the ownership for such wreckage/salvage remains with the insured. However, in some cases, the insurance company may support sourcing of competitive quotes from various salvage/ /wreckage buyers and the insured may select the best available offer for sale of wreckage or damaged car. The insured may also source quotes from open markets and dispose the wreckage or damaged car to such a buyer. In any case, the ownership of the wreckage vests with the insured and not with the insurance company. The same can be disposed by the insured either directly, or through the garage, or may not be disposed at all, as per his wish and choice. The deduction of the value of salvage from the insurance settlement amount, is as per the terms of the insurance contract, and cannot be said to be consideration for any supply being made by insurance company. Accordingly, in such cases, there does not appear to be any supply of salvage by insurance company and as such, there does not appear to be any liability under GST on the part of insurance company in respect of this salvage value. 2.3 However, in situations where the insurance contract provides for settlement of claim on full IDV, without deduction of value of salvage/wreck, the insured will be paid for full claim amount without any deductions on account of salvage value. In such a situation, the salvage becomes the property of Insurance Company after settling the claim for the full amount and the insurance company is obligated to deal with the same or dispose of the same. In such cases, the outward GST liability on disposal/sale of the salvage is to be discharged by the insurance companies.

1	2	3
		3. Therefore, in cases where due to the conditions mentioned in the contract itself, general insurance companies are deducting the value of salvage as deductibles from the claim amount, the salvage remains the property of insured and insurance companies are not liable to discharge GST liability on the same. However, in cases, where the insurance claim is settled on full claim amount, without deduction of value of salvage/wreckage (as per the terms of the contract), the salvage becomes the property of the insurance company and the insurance company will be obligated to discharge GST on supply of salvage to the salvage buyer.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

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No. CCT/26-4/2024-25/G/1617

Subject: Clarification in respect of GST liability and input tax credit (ITC) availability in cases involving Warranty/Extended Warranty, in furtherance to Circular No. 195/07/2023-GST dated 17-07-2023–reg.

Ref.: Circular No. 216/10/2024-GST dated 26th June, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular

(No. 10/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

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ANNEXURE

Circular No. 216/10/2024-GST

F. No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

North Block, New Delhi
Dated the 26th June, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/
/Principal Commissioners/Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)

Madam/Sir,

Subject: Clarification in respect of GST liability and input tax credit (ITC) availability in cases involving Warranty/Extended Warranty, in furtherance to Circular No. 195/07/2023-GST dated 17-07-2023–reg.

Reference is invited to Circular No. 195/07/2023-GST dated 17-07-2023 (herein after referred to as "the said circular") clarifying certain issues regarding GST liability and availability of input tax credit (ITC) in respect of warranty replacement of parts and repair services during warranty period. Representations have been received from trade and industry requesting for some further clarifications in related matters.

2. In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods & Services Tax Act, 2017 (herein after referred to as the "CGST Act"), hereby clarifies the following issues as below.

3. Clarification regarding GST liability as well as liability to reverse input tax credit in respect of cases where goods as such or the parts are replaced under warranty:

3.1 Table in Para 2 of Circular No. 195/07/2023-GST dated 17-07-2023 clarifies regarding GST liability as well as liability to reverse ITC, only in cases involving replacement of 'parts' and not if goods as such are replaced under warranty. Request has been made to also issue a clarification in respect of cases where the goods as such are replaced under warranty.

3.2 In cases where warranty is provided by the manufacturer/suppliers to the customers in respect of any goods, and if any defect is detected in the said goods during the warranty period, the manufacturer may be required to replace either one or more parts or the goods as such, depending upon the extent of damage/defect noticed in the said goods. However, Table in Para 2 of the said circular only clarifies in respect of the situations involving replacement of part/parts and does not specifically refer to the situation involving replacement of goods as such. It is clarified that the clarification provided in Para 2 of the said circular is also applicable in case where the goods as such are replaced under warranty.

3.3 Accordingly, wherever, '*any part*,' '*parts*' and '*part(s)*' has been mentioned in Para 2 of Circular No. 195/07/2023-GST dated 17-07-2023, the same may be read as '*goods or its parts, as the case may be'*.

4. Clarification in respect of cases where the distributor replaces the parts/goods to the customer as part of warranty out of his own stock on behalf of the manufacturer and subsequently gets replenishment of the said parts/goods from the manufacturer:

4.1 Sr. No. 4 of Para 2 of the said Circular clarifies about the GST liability as well as liability to reverse ITC in cases where the distributor provides replacement of parts to the customer as part of warranty on behalf of the manufacturer. However, it does not cover the scenario where the distributor replaces the goods to the customer as part of warranty out of his own stock on behalf of the manufacturer to provide prompt service to the customer, and then raises a requisition to the manufacturer for the goods replaced by him under warranty. The manufacturer, thereafter, provides the said goods to the distributor vide a delivery challan, as replenishment for the goods provided as replacement to the customer by the distributor. Request has been made to issue clarification in respect of such a scenario also.

4.2 In cases where the distributor replaces the parts/goods to the customer as part of warranty out of his own stock on behalf of the manufacturer and subsequently gets replenishment of the said parts/goods from the manufacturer, the key aspects, viz. (i) distributor providing replacement out of his own stock; (ii) manufacturer replenishing the distributor for the said replacement; and (iii) the replacement being made at no additional cost on the distributor,are all covered in the scenario specified

in point (b) of Sr. No.4 of Para 2 of the said Circular. Therefore, GST liability as well as liability to reverse ITC in cases covered by the said scenario should be similar to that in respect of the scenario covered in point (b) of S. No. 4 of Para 2 of the above circular.

4.3 Accordingly, to specifically clarify in respect of such a scenario, in column 3 of the table in Para 2 of the said circular, against S. No. 4, after point (c), point (d) shall be inserted as below:

"(d) There may be cases where the distributor replaces the goods or its parts to the customer under warranty by using his stock and then raises a requisition to the manufacturer for the goods or the parts, as the case may be. The manufacturer then provides the said goods or the parts, as the case may be, to the distributor through a delivery challan, without separately charging any consideration at the time of such replenishment. In such a case, no GST is payable on such replenishment of goods or the parts, as the case may be. Further, no reversal of ITC is required to be made by the manufacturer in respect of the goods or the parts, as the case may be, so replenished to the distributor."

5. (i) Nature of supply of extended warranty, at the time of original supply of goods, as a separate supply from supply of goods, if the supply of extended warranty is made by a person different from the supplier of the goods;

(ii) Nature of supply of extended warranty, made after original supply of goods:

5.1 It has been represented that in respect of cases, where agreement for extended warranty is made at the time of original supply of goods, and the supplier of extended warranty is different from the supplier of goods, the extended warranty should be treated as a separate and independent transaction from the supply of goods, whereas Sr. No. 6 of Para 2 of the said Circular has treated it to be in the nature of composite supplies, the principal supply being the supply of goods. Request has been made to issue a suitable clarification in the matter.

5.1.1 There may be cases where the supplier of the goods may be the dealer while the supplier of extended warranty may be the OEM or third party. In such cases, the supplies being made by different suppliers cannot be treated as part of the composite supply. It is, therefore, clarified that in cases, where agreement for extended warranty is made at the time of original supply of goods, and the supplier of extended warranty is different from the supplier of goods, the supply of extended warranty and supply of goods cannot be treated as the composite supply. In such cases, supply of extended warranty will be treated as a separate supply from the original supply of goods.

5.2 It has also been represented that in cases where extended warranty is sold subsequent to the original supply of goods, the same should be considered as supply of services only whereas the said Circular clarifies that GST on the same would be payable depending on the nature of the contract (i.e. whether the extended warranty is only for goods or for services or for composite supply involving goods and services). Request has been made to issue a revised clarification in respect of the same.

5.2.1 Supply of extended warranty is an assurance to the customers by the manufacturer/third party that the goods will operate free of defects during the extended warranty coverage period, and in case of any defect attributable to faulty material or workmanship at the time of manufacture, the same will be repaired/replaced by the said manufacturer/third party. Further, whether the goods will later on require replacement of parts or just repair service or neither during the said extended warranty period, is also not known at the time of sale/supply of extended warranty. Thus, extended warranty is in the nature of conveying of an "assurance" and not an actual replacement of part or repairs.

5.3 Accordingly, it is clarified that in cases, where supply of extended warranty is made subsequent to the original supply of goods, or where supply of extended warranty is to be treated as a separate supply from the original supply of goods in cases referred in Para 5.1.1 above, the supply of extended warranty shall be treated as a supply of services distinct from the original supply of goods, and the supplier of the said extended warranty shall be liable to discharge GST liability applicable on such supply of services.

5.4 Accordingly, in Sr. No. 6 of Table in para 2 of the said Circular, in column No. 3 of the table, the following shall be substituted:

"(a) If a customer enters into an agreement of extended warranty with the supplier of the goods at the time of original supply, then the consideration for such extended warranty becomes part of the value of the composite supply, the principal supply being the supply of goods, and GST would be payable accordingly.

However, if the supply of extended warranty is made by a person different from the supplier of the goods, then supply of extended warranty will be treated as a separate supply from the original supply of goods and will be taxable as supply of services.

(b) In case where a consumer enters into an agreement of extended warranty at any time after the original supply, then the same shall be treated as a supply of services distinct from the original supply of goods and the supplier of the said extended warranty shall be liable to discharge GST liability applicable on such supply of services."

6. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

7. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

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No. CCT/26-4/2024-25/G/1618

Subject: Entitlement of ITC by the insurance companies on the expenses incurred for repair of motor vehicles in case of reimbursement mode of insurance claim settlement–reg.

Ref.: Circular No. 217/11/2024-GST dated 26th June, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular
(No. 11/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

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ANNEXURE

Circular No. 217/11/2024-GST

F. No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

North Block, New Delhi
Dated the 26th June, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/
/Principal Commissioners/Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)

Madam/Sir,

Subject: Entitlement of ITC by the insurance companies on the expenses incurred for repair of motor vehicles in case of reimbursement mode of insurance claim settlement-reg.

The insurance companies, which are engaged in providing general insurance services in respect of insurance of motor vehicles, insure the cost of repairs/damages of motor vehicles incurred by the policy holders and settle the claims in two modes i.e., Cashless or Reimbursement.

1.2 Under both modes of settlement, the insurance company accounts for repair liability (as assessed by the Surveyor/Loss Assessor) as claim cost and is liable to make payment of approved repair charges to the garage. In both the cases, the invoices are generally issued by the garages in the name of Insurance companies. While in case of Cashless Mode, the insurance companies directly make the payment of approved repair charge to the Network Garage, in case of Reimbursement mode, the payment is first made by the Insured to the Non-Network Garage, which is subsequently reimbursed by the insurance company to the Insured, to the extent of approved repair/claim cost. Accordingly, the insurance companies may be availing input tax credit (ITC) on the tax paid in respect of such repair services provided by the garages in Cashless Mode of claim settlement as well as in Reimbursement Mode of claim settlement on the basis of the invoices issued by the garages in their name.

1.3 It has been represented by the insurance companies that in case of reimbursement mode of claim settlement, some field formations are raising objections on availment of ITC by insurance companies in respect of repair invoices issued by the non-network garages on insurance companies. It is being claimed by the said field formations that in case of reimbursement mode of claim settlement, there is no credit facility offered by the garages to the Insurance Companies and therefore, the supply of repair service is made by the garage to the insured and not to the insurer. Accordingly, it is being claimed that ITC of repair invoices, in such cases, should not be available to the insurance companies.

1.4 Request has been received seeking clarity on availability of ITC in respect of repair expenses incurred in case of reimbursement mode of claim settlement.

2. In order to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act"), hereby clarifies the following:

S. No.	Issue	Clarification
1	2	3
1	The insurance companies, which are engaged in providing general insurance services in respect of insurance of motor vehicles, insure the cost of repairs/damages of motor vehicles incurred by the policy holders and settle the claims in two modes i.e., Cashless or Reimbursement. Whether ITC is available to insurance companies in respect of repair expenses reimbursed by the insurance company in case of reimbursement mode of claim settlement.	Under reimbursement mode of claim settlement, the insured avails repair services from non-network garages with which the insurance companies do not have routine business relationship. The said garages issue the invoice in the name of the insurance company while not extending credit facility for the repair costs. Accordingly, the policy holder/insured makes payment of such repair services, and subsequently, the insurance company reimburses the approved claim cost to the insured. Section 17(5) of the CGST Act provides that ITC in respect of services of repair of motor vehicles shall be available where received by a taxable person engaged in the supply of general insurance services in respect of motor vehicles insured by him. Section 16 of CGST Act provides that every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49 of the said Act, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said

1	2	3
		amount shall be credited to the electronic credit ledger of such person. Further, Section 2(93) of CGST Act defines "recipient" of supply of goods or services or both, as the person who is liable to pay the consideration, where such consideration is payable for the said supply of goods or services or both. Moreover, as per Section 2(31) of CGST Act, "consideration" includes any payment made or to be made in relation to supply of the goods or services or both, whether by the recipient or by any other person. In reimbursement mode of claim settlement, the payment is made by the insurance company for the approved cost of repair services through reimbursement to the insured. Further, irrespective of the fact that the payment of the repair services to the garage is first made by the insured, which is then reimbursed by the insurance company to the insured to the extent of the approved claim cost, the liability to pay for the repair service for the approved claim cost lies with the insurance company, and thus, the insurance company is covered in the definition of "recipient" in respect of the said supply of services of vehicle repair provided by the garage under Section 2(93) of CGST Act, to the extent of approved repair liability. Moreover, availment of credit in respect of input tax paid on motor vehicle repair services received by the insurance company for outward supply of insurance services for such motor vehicles is not barred under Section 17(5) of CGST Act. Accordingly, it is clarified that ITC is available to Insurance Companies in respect of motor vehicle repair expenses incurred by them in case of reimbursement mode of claim settlement.
2.	Where the invoice raised by the garage also includes an amount in excess of the approved claim cost, the insurance company only reimburses the approved claim cost to the garage after considering the standard deductions viz. the compulsory deductibles to be borne by the insured, depreciation, improvements outside the coverage, value of salvage of the damaged parts of the motor vehicles, etc. The remaining amount is to be paid by the insured to the garage. What is the extent of ITC available to the insurer in such cases?	In cases where the garage issues two separate invoices in respect of the repair services, one to the insurance company in respect of approved claim cost and second to the customer for the amount of repair service in excess of the approved claim cost, input tax credit may be available to the insurance company on the said invoice issued to the insurance company subject to reimbursement of said amount by insurance company to the customer. However, if the invoice for full amount for repair services is issued to the insurance company while the insurance company makes reimbursement to the insured only for the approved claim cost, then, the input tax credit may be available to the insurance company only to the extent of reimbursement of the approved claim cost to the insured, and not on the full invoice value.

1	2	3
3.	Whether ITC is available to the insurer where the invoice for the repair of the vehicle is not in name of the insurance company.	In such a case, condition of Clause (a) and (aa) of Section 16(2) of CGST Act is not satisfied and accordingly, input tax credit will not be available to the insurance company in respect of such an invoice.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

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No. CCT/26-4/2024-25/G/1619

Subject: Clarification regarding taxability of the transaction of providing loan by an overseas affiliate to its Indian affiliate or by a person to a related person–reg.

Ref.: Circular No. 218/12/2024-GST dated 26th June, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular
(No. 12/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

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ANNEXURE

Circular No. 218/12/2024-GST

F. No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs
GST Policy Wing

North Block, New Delhi
Dated the 26th June, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
/Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)

Madam/Sir,

Subject: Clarification regarding taxability of the transaction of providing loan by an overseas affiliate to its Indian affiliate or by a person to a related person-reg.

Representations have been received from trade and industry seeking clarity on whether there is any supply involved in the transaction of granting of loan by a person to a related person or by an overseas affiliate to its Indian entity, where the consideration being paid is only by way of interest or discount, and whether any GST is applicable on the same.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by Section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues as under:

S. No.	Issue	Clarification
1	2	3
Clarification regarding taxability of the transaction of providing loan by an overseas entity to its Indian related entity or by a person in India to a related person		
1.	Whether the activity of providing loans by an overseas affiliate to its Indian affiliate or by a person to a related person, where there is no consideration in the nature of processing fee/ /administrative charges/ loan granting charges etc., and the consideration is represented only by way of interest or discount, will be treated as a taxable supply of service under GST or not.	1. As per Clause (c) of sub-section (1) of section 7 of the CGST Act, read with S. No. 2 and S. No. 4 of Schedule I of CGST Act, supply of goods or services or both between related persons, when made in the course or furtherance of business, shall be treated as supply, even if made without consideration. Therefore, it is evident that the service of granting loan/credit/ /advances by an entity to its related entity is a supply under GST. 2. Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) are exempted under sub entry (a) of entry 27 of Notification No. 12/2017-Central Tax (Rate). Therefore, it is clear that the supply of services of granting loans/credit/advances, in so far as the consideration is represented by way of interest or discount, is fully exempt under GST. 3. It is mentioned that overseas affiliates or domestic related persons are generally charging no consideration in the form of processing fee/service fee, other than the consideration by way of interest or discount on the loan amount. Doubts are being raised regarding the taxability of the services of processing/administering/facilitating the loan in such cases, by deeming the same as supply as per clause (c) of sub-section (1) of Section 7 of the CGST Act, read with S. No. 2 and S. No. 4 of Schedule I of CGST Act. The processing fee/ service fee is generally a one-time charge that lenders levy on applicants when they apply for a loan. This fee is generally non-refundable and is used to cover the administrative cost of processing the loan application. Charges of any other nature in respect of loan, other than by way of interest or discount, would represent taxable consideration for providing the facilitation/processing/administration services for the loan and hence would be liable to GST. This has been clarified at serial number 42 in the Sectoral FAQ on Banking, Insurance and Stock Brokers Sector issued by CBIC. 4. It is significant to note that the processing/service fee is generally charged by the bank/financial institution from the

1	2	3
		recipient of the loan in order to cover the administrative cost of processing the loan application. An independent lender may carry out a thorough credit assessment of the potential borrower to identify and evaluate the risks involved and to consider methods of monitoring and managing these risks. Such credit assessment may include understanding the business of the applicant, as well as the purpose of the loan, financial standing and credibility of the applicant, how it is to be structured and the source of its repayment which may include analysis of the borrower's cash flow forecasts, the strength of the borrower's balance sheet, and where any collateral is offered, due diligence on the collateral offered may also be required to be carried out. To cover such costs, the independent lender generally collects a fee that is in the nature of processing fee/administrative charges/service fee/loan granting charges, which is leviable to GST. 5. However, when an entity is extending a loan to a related entity, it may not require to follow such processes as are followed by an independent lender. For example, it may not need to go through the same process of information gathering about the borrower's business, his financial standing and credibility and other details, as the required information may already be readily available within the group, or between related persons. The lender may not also take any collateral from the borrower. Accordingly, in case of loans provided between related parties, there may not be the activity of 'processing' the loan, and no administrative cost may be involved in granting such a loan. Therefore, it may not be desirable to place the services being provided for processing the loans by banks or independent lenders vis-a-vis the loans provided by a related party, on equal footing. 6. Even in case of loans provided between unrelated parties, there may not be any processing fee/administrative charges/ /loan granting charges etc., based on the relationship between the bank/independent lender and the person taking the loan. The lender might waive off the administrative charges in full, based on the nature and amount of loan granted, as well as based on the relationship between the lender and the concerned person taking the loan. 7. Accordingly, in the cases, where no consideration is charged by the person from the related person, or by an overseas affiliate from its Indian party, for extending loan or credit, other than by way of interest or discount, it cannot be said that any supply of service is being provided between the said related persons in the form of processing/ /facilitating/administering the loan, by deeming the same as supply of services as per Clause (c) of sub-section (1) of Section 7 of the CGST Act, read with S. No. 2 and S. No. 4 of Schedule I of CGST Act. Accordingly, there is no question of levy of GST on the same by resorting to open market value for valuation of the same as per rule 28 of Central Goods and Services Tax Rules, 2017. 8. However, in cases of loans provided between related parties, wherever any fee in the nature of processing fee/

1	2	3
		/administrative charges/service fee/loan granting charges etc. is charged, over and above the amount charged by way of interest or discount, the same may be considered to be the consideration for the supply of services of processing/ /facilitating/administering of the loan, which will be liable to GST as supply of services by the lender to the related person availing the loan.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulties, if any, in implementing this Circular may please be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

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No. CCT/26-4/2024-25/G/1620

Subject: Clarification on availability of input tax credit on ducts and manholes used in network of Optical Fiber Cables (OFCs) in terms of Section 17(5) of the CGST Act, 2017–reg.

Ref.: Circular No. 219/13/2024-GST dated 26th June, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular

(No. 13/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

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ANNEXURE

Circular No. 219/13/2024-GST

F. No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

North Block, New Delhi,
Dated the 26th June, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/
/Principal Commissioners/Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)

Madam/Sir,

Subject: Clarification on availability of input tax credit on ducts and manholes used in network of Optical Fiber Cables (OFCs) in terms of Section 17(5) of the CGST Act, 2017-reg.

Representations have been received from Cellular Operators Association of India (COAI) submitting that Input Tax Credit (ITC) is being denied by some tax authorities on ducts and manholes used in network of Optical Fiber Cables (OFCs) on the ground that the same is blocked as per section 17(5) of the Central Goods & Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act"), being in nature of immovable property (other than Plant and Machinery). It has been requested to issue clarification in respect of availability of ITC on ducts and manholes used in network of Optical Fiber Cables (OFCs), so as to prevent unwarranted litigation in the telecommunication sector across the country.

2. In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by Section 168 (1) of the CGST Act, hereby clarifies the issue as below.

Issue	Clarification
1	2
Whether the input tax credit on the ducts and manholes used in network of Optical Fiber Cables (OFCs) for providing telecommunication services is barred in terms of clauses (c) and (d) of sub-section (5) of section 17 of the CGST Act, read with Explanation to section 17 of CGST Act ?	1. Sub-section (5) to Section 17 of the CGST Act provides that input tax credit shall not be available, inter alia, in respect of the following: i. works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service; or ii. goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business. 2. Explanation in Section 17 of CGST Act provides that the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes land, building or any other civil structures; telecommunication towers; and pipelines laid outside the factory premises. 3. Ducts and manholes are basic components for the Optical Fiber Cable (OFC) network used in providing telecommunication services. The OFC network is generally laid with the use of PVC ducts/sheaths in which OFCs are housed and service/connectivity manholes, which serve as nodes of the network, and are necessary for not only laying of optical fiber cable but also their upkeep and maintenance. In view of the Explanation in section 17 of the CGST Act, it appears that ducts and manholes are covered under the definition of "plant and machinery" as they are used as part of the OFC network for making outward supply of transmission of telecommunication signals from one point to another. Moreover, ducts and manholes used in network of Optical Fiber Cables (OFCs) have not been specifically excluded from the definition of "*plant and machinery*" in the Explanation to Section 17 of CGST Act, as they are neither in nature of land, building or civil structures nor are in nature of telecommunication towers or pipelines laid outside the factory premises.

1	2
	4. Accordingly, it is clarified that availment of input tax credit is not restricted in respect of such ducts and manhole used in network of Optical Fiber Cables (OFCs), either under Clause (c) or under Clause (d) of sub-section (5) of Section 17 of CGST Act.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

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No. CCT/26-4/2024-25/G/1621

Subject: Clarification on place of supply applicable for custodial services provided by banks to Foreign Portfolio Investors–reg.

Ref.: Circular No. 220/14/2024-GST dated 26th June, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular
(No. 14/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

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ANNEXURE

Circular No. 220/14/2024-GST

F. No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

North Block, New Delhi
Dated the 26th June, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)

Madam/Sir,

Subject: Clarification on place of supply applicable for custodial services provided by banks to Foreign Portfolio Investors-reg.

Representations have been received seeking clarification on the Place of Supply in cases of Custodial Services provided by Banks to Foreign Portfolio Investors (hereinafter referred to as "FPIs"), as a view is being taken by some field formations that the Place of Supply in case of 'custodial service' would be determined as per Section 13(8)(a) of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as "IGST Act"), i.e. the location of the service provider (banks or financial institutions).

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by Section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issue as under:

Issue	Clarification
1	2
Whether the activity of providing Custodial Services by banks or financial institutions to FPIs will be treated as services provided to 'account holder' under Section 13(8)(a) of the IGST Act, 2017? Further, how the place of supply of the said services shall be determined?	According to the Securities and Exchange Board of India (Custodian of Securities) Regulations 1996, 'Custodial Services' in relation to securities means safekeeping of securities of a client and providing services incidental thereto, and includes– • maintaining accounts of securities of a client; • collecting the benefits or rights accruing to the client in respect of securities; • keeping the client informed of the actions taken or to be taken by the issuer of securities, having a bearing on the benefits or rights accruing to the client; and • maintaining and reconciling records of the services referred above. As per Regulation 20(1) of the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019, an FPI is allowed to invest only in the following securities, namely– (a) shares, debentures and warrants issued by a body corporate; listed or to be listed on a recognized stock exchange in India; (b) units of schemes launched by mutual funds under Chapter V, VI-A and VI-B of the Securities and Exchange Board of India (Mutual Fund) Regulations, 1996; (c) units of schemes floated by a Collective Investment Scheme in accordance with the Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999; (d) derivatives traded on a recognized stock exchange; (e) units of real estate investment trusts, infrastructure investment trusts and units of Category III Alternative Investment Funds registered with the Board; (f) Indian Depository Receipts; (g) any debt securities or other instruments as permitted by the Reserve Bank of India for foreign portfolio investors to invest in from time to time; and (h) such other instruments as specified by the Board from time to time. Various banks enter into custodial agreements with the Foreign Portfolio Investors (FPIs) for the provision of such custodial services. The main activity carried out by banks as a custodian in relation to custodial services is maintaining account of the securities held by the FPIs.

1	2
	As per Clause (a) of sub-section (8) of Section 13 of IGST Act, Place of Supply of services supplied by banking company or a financial institution or a non-banking company to account holders shall be the location of the supplier of services. As per Explanation (a) of Section 13(8) of IGST Act, *'account' means an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account.* It is mentioned that the provisions similar to above provisions under IGST Act existed during the Service Tax regime. The place of provision of service under Service Tax was governed by the Service Tax Place of Provision of Supply Rules, 2012. Provisions of Rule 9(a) of the Service Tax Place of Provision of Supply Rules, 2012 were identical to that of Section 13(8)(a) of the IGST Act. The Education Guide under the Service Tax Law clarified the scope of the term "account holder" and the services provided by banks to account holders as well as the services which are not provided to account holders, as below: *"Question: 5.9.2 What is the meaning of "account holder"? Which accounts are not covered by this rule?* *Answer: "Account" has been defined in the rules to mean an account which bears an interest to the depositor. Services provided to holders of demand deposits, term deposits, NRE (non-resident external) accounts and NRO (non-resident ordinary) accounts will be covered under this rule.* *Question: 5.9.3 What are the services that are provided by a banking company to an account holder (holder of an account bearing interest to the depositor)?* *Answer: Following are examples of services that are provided by a banking company or financial institution to an "account holder", in the ordinary course of business:—* *i) services linked to or requiring opening and operation of bank accounts such as lending, deposits, safe deposit locker etc.;* *ii) transfer of money including telegraphic transfer, mail transfer, electronic transfer etc.* *Question: 5.9.4 What are the services that are not provided by a banking company or financial institution to an account holder, in the ordinary course of business, and will consequently be covered under another Rule?* *Answer: Following are examples of services that are generally NOT provided by a banking company or financial institution to an account holder (holder of a deposit account bearing interest), in the ordinary course of business:-* *i) financial leasing services including equipment leasing and hire purchase;* *ii) merchant banking services;* *iii) Securities and foreign exchange (forex) broking, and purchase or sale of foreign currency, including money changing;* *iv) asset management including portfolio management, all forms of fund management, pension fund management, custodial, depository and trust services*

1	2
	In the case of any service which does not qualify as a service provided to an account holder, the place of provision will be determined under the default rule i.e. the Main Rule 3. Thus, it will be the location of the service receiver where it is known (ascertainable in the ordinary course of business), and the location of the service provider otherwise." Accordingly, as per clarification given in Education Guide under Service Tax Regime, the custodial services are not considered to be covered under the services provided by bank to account holders, but have been considered to be covered under the services which are not provided to account holder. As the provisions of Section 13(8)(a) of the IGST Act are similar to the provisions of Rule 9(a) of the Service Tax Place of Provision of Supply Rules, 2012, the clarification given in the Education Guide under Service Tax Regime is equally applicable under GST Regime. Accordingly, it is clarified that the custodial services provided by banks or financial institutions to FPIs are not to be treated as services provided to 'account holder' and therefore, the said services are not covered under Section 13(8)(a) of the IGST Act. Therefore, the place of supply of such services is not to be determined under Section 13(8)(a) of the IGST Act but has to be determined under the default provision i.e., sub-section (2) of Section 13 of the IGST Act.

2. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

3. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

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No. CCT/26-4/2024-25/G/1622

Subject: Clarification on time of supply in respect of supply of services of construction of road and maintenance thereof of National Highway Projects of National Highways Authority of India (NHAI) in Hybrid Annuity Mode (HAM) model–reg.

Ref.: Circular No. 221/15/2024-GST dated 26th June, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular

(No. 15/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

ANNEXURE

Circular No. 221/15/2024-GST

F. No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs
GST Policy Wing

North Block, New Delhi
Dated the 26th June, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
/Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)

Madam/Sir,

Subject: Clarification on time of supply in respect of supply of services of construction of road and maintenance thereof of National Highway Projects of National Highways Authority of India (NHAI) in Hybrid Annuity Mode (HAM) model–reg.

Representations have been received from the trade and the field formations seeking clarification regarding the time of supply in respect of supply of services of construction of road and maintenance thereof of National Highway Projects in Hybrid Annuity Mode (HAM) model, where certain portion of Bid Project Cost is received during construction period and remaining payment is received through deferred payment (annuity) spread over years.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by Section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as"CGSTAct"), hereby clarifies the issues as under:

S. No.	Issue	Clarification
1	2	3
1.	Under HAM model of National Highways Authority of India (NHAI), the concessionaire has to construct the new road and provide Operation & Maintenance of the same which is generally over a period of 15-17 years and the payment of the same is spread over the years. What is the time of supply for the purpose of payment of tax on the said service under the HAM model?	Under the Hybrid Annuity Model (HAM) of concession agreements, the highway development projects are under Design, Build, Operate and Transfer model (DBOT), wherein the concessionaire is required to undertake new construction of Highway, as well as the Operation and Maintenance (O&M) of Highways. The payment terms for the construction portion as well as the O&M portion of the contract are provided in the agreement between National Highways Authority of India (NHAI) and the concessionaire. 2.1 A HAM contract is a single contract for construction as well as operation and maintenance of the highway. The payment terms are so staggered that the concessionaire is held accountable for the repair and maintenance of the highway as well. The contract needs to be looked at holistically based on the services to be performed by the concessionaire and cannot be artificially split into two separate contracts for construction and operation and maintenance, based on the payment terms. The concessionaire is bound contractually to complete not only the construction of the highway but also to operate and maintain the same.

1	2	3
		2.2 In HAM contract, the payment is made spread over the contract period in installments and payment for each installment is to be made after specified periods, or on completion of an event, as specified in the contract. The same appears to be covered under the 'Continuous supply of services' as defined under section 2(33) of the CGST Act. 2.3 As per clause (a) of Section 13(2) of CGST Act, the time of supply in respect of a supply of services shall be the date of issue of Invoice, or date of receipt of payment, whichever is earlier, in cases where invoice is issued within the period prescribed under section 31 of CGST Act. Further, as per clause (b) of Section 13(2) of CGST Act, in cases where invoice is not issued within the period prescribed under section 31, the time of supply of service shall be date of provision of the service or date of receipt of payment, whichever is earlier. However, as per section 31(5) of CGST Act, in cases of continuous supply of services, where the payment is made periodically, either due on a specified date or is linked to the completion of an event, the invoice is required to be issued on or before the specified date or the date of completion of that event. 2.4 Accordingly, as per section 13(2) of CGST Act, read with section 31(5) of CGST Act, time of supply of services under HAM contract, including construction and O&M portion, should be the date of issuance of such invoice, or date of receipt of payment, whichever is earlier, if the invoice is issued on or before the specified date or the date of completion of the event specified in the contract, as applicable. However, in cases, where the invoice is not issued on or before the specified date or the date of completion of the event specified in the contract, as per clause (b) of section 13(2), time of supply should be the date of provision of the service, or date of receipt of payment, whichever is earlier. In case of continuous supply of services, the date of provision of service may be deemed as the due date of payment as per the contract, as the invoice is required to be issued on or before the due date of payment as per the provisions of Section 31(5) of CGST Act. 3. In the light of above, it is clarified that the tax liability on the concessionaire under the HAM contract, including on the construction portion, would arise at the time of issuance of invoice, or receipt of payments, whichever is earlier, if the invoice is issued on or before the specified date or the date of completion of the event specified in the contract, as applicable. If invoices are not issued on or before the specified date or the date of completion of the event specified in the contract, tax liability would arise on the date of provision of the said service (i.e., the due

1	2	3
		date of payment as per the contract), or the date of receipt of the payment, whichever is earlier. 4. It is also clarified that as the installments/annuity payable by NHAI to the concessionaire also includes some interest component, the amount of such interest shall also be includible in the taxable value for the purpose of payment of tax on the said annuity/installment in view of the provisions of section 15(2)(d) of the CGST Act.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

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No. CCT/26-4/2024-25/G/1623

Subject: Clarification on time of supply of services of spectrum usage and other similar services under GST-reg.

Ref.: Circular No. 222/16/2024-GST dated 26th June, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular

(No. 16/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

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ANNEXURE

Circular No. 222/16/2024-GST

F. No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs
GST Policy Wing

North Block, New Delhi
Dated the 26th June, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
Commissioners of Central Tax (All)
The Principal Directors General/ Directors General (All)

Madam/Sir,

Subject: Clarification on time of supply of services of spectrum usage and other similar services under GST-reg.

Representations have been received from the trade and the field formations seeking clarification regarding the time of supply for payment of GST in respect of supply of spectrum allocation services in cases where the successful bidder for spectrum allocation (i.e. the telecom operator) opts for making payments in instalments under deferred payment option as per Frequency Assignment Letter (FAL) issued by Department of Telecommunication (DoT), Government of India.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to As"CGSTAct"), hereby clarifies the issues as under:

S. No.	Issue	Clarification
1	2	3
1.	In cases of spectrum allocation where the successful bidder (i.e. the 'telecom operator') opts for making payments in instalments as mentioned in the Notice Inviting Application (NIA) and Frequency Assignment Letter (FAL) issued by Department of Telecommunications (DoT), Government of India, what will be the time of supply for the purpose of payment of GST on the said supply of spectrum allocation services.	Under the spectrum allocation model followed by DoT, bidder (the telecom operator) bids for securing the right to use spectrum offered by the government. Here, service provider is the Government of India (through DoT) and service recipient is the bidder/telecom operator. The GST is to be discharged on the supply of spectrum allocation services by the recipient of services (the telecom operator) on reverse charge basis *[Notification No. 13/2017-Central Tax (Rate) dated 28th June, 2017 referred*]. 2.1 In respect of the said supply of spectrum allocation services, if the telecom operator chooses the option to make payment in installments, the payment has to be made spread over the contract period in installments and payment for each installment is to be made after specified periods, as specified in the Frequency Assignment Letter of DoT, which is in the nature of contract. The same is a 'continuous supply of services' as defined under section 2(33) of the CGST Act, since the supply of services (spectrum usage) is agreed to be provided by the supplier (DoT) to the recipient (telecom operator) continuously for a period which is exceeding three months with periodic payment obligations. 2.2 As per section 13(1) of CGST Act, the liability to pay tax on supply of services shall arise at the time of supply. In case of forward charge supplies, the time of supply of services is governed by section 13(2) of CGST Act, which is the earlier of date of issue of invoice by the supplier or date of provision of service or the date of payment, as the case may be. 2.3 However, in respect of supply of services, on which tax is paid or liable to be paid on reverse charge basis, as per Section 13(3) of CGST Act, 2017, the time of supply of services shall be the earlier of the following dates, namely:-

		(a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or (b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier. 2.3.1 Some of the field formations are considering the Frequency Assignment Letter issued by DoT as akin to any other document, by whatever name called, in lieu of an invoice mentioned in clause (b) of section 13(3) of CGST Act and are demanding interest on instalments paid after 60 days from the date of issue of the same. 2.3.2 It is observed that Frequency Assignment Letter is in the nature of a bid acceptance document intimating the telecom operator that the result of the auction has been accepted by the competent authority and the details of blocks and spectrum allotted to the telecom operator. The Frequency Allotment Letter also mentions the options and the amounts to be paid by the telecom operator in each of the two options. 2.4 Further, as per section 31(5)(a) of CGST Act, in cases of continuous supply of services, where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before such due date of payment. In the instant case, the date of payment to be made by the telecom operator to DoT is clearly ascertainable from the Notice Inviting Applications read with the Frequency Assignment Letter. Accordingly, tax invoice will be required to be issued in respect of the said supply of services, on or before such due date of payment as per the option exercised by the telecom operator. 3. In the light of above, it is clarified that in case where full upfront payment is made by the telecom operator, GST would be payable when the payment of the said upfront amount is made or is due, whichever is earlier, whereas in case where deferred payment is made by the telecom operator in specified installments, GST would be payable as and when the payments are due or made, whichever is earlier. 4. It is also clarified that the similar treatment regarding the time of supply, as is discussed in the above paras, may apply in other cases also where any natural resources are being allocated by the government to the successful bidder/purchaser for right to use the said natural resource over a period of time, constituting continuous supply of services as per the definition under Section 2(33) of the CGST Act, with the option of

		payments for the said services either through an upfront payment or in deferred periodic installments over the period of time.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

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No. CCT/26-4/2024-25/G/1624

Subject: Guidelines for recovery of outstanding dues, in cases wherein first appeal has been disposed of, till Appellate Tribunal comes into operation.

Ref.: Circular No. 224/18/2024-GST dated 11th July, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular

(No. 17/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

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ANNEXURE

Circular No. 224/18/2024-GST

CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 11th July, 2024

To,

The Pr. Chief Commissioners/Chief Commissioners/Principal Commissioners/
/Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)

Madam/Sir,

Subject: Guidelines for recovery of outstanding dues, in cases wherein first appeal has been disposed of, till Appellate Tribunal comes into operation.

Doubts have been raised by the trade and the field formations in respect of recovery of outstanding dues, in cases where the first appellate authority has confirmed the demand created by the adjudicating authority, fully or partially, and where appeal against such order of appellate authority could not be filed under Section 112 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') due to non-constitution of Appellate Tribunal (hereinafter referred to as 'Tribunal'), as yet. Doubts have also been raised as to whether the amount that was originally intended to be paid towards the demand created but has inadvertently been paid and intimated by the taxpayer through FORM GST DRC-03 either under the 'voluntary' category or under the 'others' category, can be adjusted against the pre-deposit that is required to be paid by the taxpayer for filing appeal before the appellate authority under section 107, and before the appellate tribunal under Section 112 of the CGST Act.

2. The matter has been examined. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by Section 168 (1) of the CGST Act, hereby issues the following clarifications and guidelines.

3. In cases, where the first appellate authority has confirmed the demand issued by the adjudicating authority, partially or fully, the taxpayers cannot file appeal against the said appellate order at present due to non-operation of GST Appellate Tribunal as yet. As per Section 112 of the CGST Act, every person has statutory remedy of appeal against the order passed by the first appellate authority or by a revisional authority, before the Tribunal. As per Section 78 of CGST Act, the recovery proceedings are to be initiated, if the amount payable as per the order issued under the said act is not paid by the concerned person within the said period of three months from the date of service of the said order. It may further be noted that if any person files an appeal in accordance with the requirement of sub-section (8) of Section 112 of the CGST Act (i.e., on payment of prescribed pre-deposit), the recovery proceedings for the balance amount is deemed to be stayed till disposal of the appeal as per sub-section (9) of Section 112 of the CGST Act. However, as the taxpayers are not able to file appeal under section 112 in Appellate Tribunal against the orders of appellate authority and therefore, are not able to make the pre-deposit under sub-section (8) of Section 112 of CGST Act, in some cases, the tax officers are taking a view that there is no stay against recovery as per sub-section (9) of Section 112 of CGST Act. In some cases, taxpayers have either paid or are willing to pay the requisite amount of pre-deposit as per sub-section (8) of Section 112 of CGST Act either by crediting in their electronic liability register against the demand so created, or by depositing the said amount through FORM DRC-03. However, tax officers are still resorting to recovery proceedings after completion of period stipulated under Section 78 of CGST Act.

4. In order to facilitate the taxpayers to make the payment of the amount of pre-deposit as per sub-section (8) of section 112 of CGST Act, and to avail the benefit of stay from recovery of the remaining amount of confirmed demand as per sub-section (9) of section 112 of CGST Act, it is hereby clarified that in cases where the taxpayer decides to file an appeal against the order of the appellate authority and wants to make the payment of the amount of pre-deposit as per sub-section (8) of section 112 of CGST Act, he can make the payment of an amount equal to the amount of pre-deposit by navigating to *Services >> Ledgers>> Payment towards demand,* from his dashboard*.* The taxpayer would be navigated to Electronic Liability Register (ELL) Part-II in which he can select the order, out of the outstanding demand orders, against which payment is intended to be made. The amount so paid would be mapped against the selected order and demand amount would be reduced in the balance liability in the aforesaid register. The said amount deposited by the taxpayer will be adjusted against the amount of pre-deposit required to be deposited at the time of filing appeal before the Appellate Tribunal.

5. The taxpayer also needs to file an undertaking/declaration with the jurisdictional proper officer that he will file appeal against the said order of the appellate authority before the Appellate Tribunal, as and when it comes into operation, within the timelines mentioned in section 112 of the CGST Act read with Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 03-12-2019. On providing the said undertaking and on payment of an amount equal to the amount of pre-deposit as per the procedure mentioned in para 4 above, the recovery of the remaining amount of confirmed demand as per the order of the appellate authority will stand stayed as per provisions of sub-section (9) of section 112 of CGST Act.

6. In case, the taxpayer does not make the payment of the amount equal to amount of pre-deposit or does not provide the undertaking/declaration to the proper officer, then it will be presumed that tax payer is not willing to file appeal against the order of the appellate authority and in such cases, recovery proceedings can be initiated as per the provisions of law. Similarly, when the Tribunal comes into operation, if the taxpayer does not file appeal within the timelines specified in Section 112 of the CGST Act read with Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 03-12-2019, the remaining amount of the demand will be recovered as per the provisions of law.

7.1 It has also been noticed that some taxpayers have already paid amounts that were intended to have been paid towards a demand, through FORM GST DRC-03. Attention is invited to notification No. 12/2024- CT dated 10-07-2024, vide which sub-rule (2B) of Rule 142 and FORM GST DRC-03A has been inserted in Central Goods and Services Rules, 2017 (hereinafter referred to as 'CGST Rules), providing for a mechanism for cases where the person liable to pay tax, interest and penalty under Section 52 or Section 73 or Section 74 or Section 76 or Section 122 or Section 123 or Section 124 or section 125 or Section 127 or Section 129 or section 130 of CGST Act has made payment of such tax, interest and penalty, inadvertently through FORM GST DRC-03 under sub-rule (2) of Rule 142. In such cases, the said person can file an application in FORM GST DRC-03A, electronically on the common portal, and the amount so paid and intimated through the FORM GST DRC-03 shall be adjusted as if the said payment was made towards the said demand on the date of such intimation through FORM GST DRC-03.

7.2 Accordingly, in cases where the concerned taxpayer has paid an amount that was intended to have been paid towards a particular demand through FORM GST DRC-03, has submitted an application in FORM GST DRC-03A on the common portal, the amount so paid and intimated through the FORM GST DRC-03 will be considered as if the payment was made towards the said demand on the date of such intimation through FORM GST DRC-03. The amount so paid shall also be liable to be adjusted towards the amount required to be paid as pre-deposit under Section 107 and Section 112 of the CGST Act, if and when the taxpayer files an appeal against the said demand, before the appellate authority or the appellate tribunal, as mentioned in para 4 above, and the remaining amount of confirmed demand as per the order of the adjudicating authority or the appellate authority, as the case may be, will stand stayed as per provisions of sub-section (6) of Section 107 and sub-section (9) of Section 112 of CGST Act. However, if the taxpayer does not file appeal within the timelines prescribed in Section 107 and Section 112 of the CGST Act, as the case may be, read with Central Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 03-12-2019, the remaining amount of the demand will be recovered as per the provisions of law.

7.3 In this regard, it is to be mentioned that the application in FORM GST DRC-03A for adjustment of demand liability against the payment through FORM GST DRC-03 cannot be made in cases where against the payment made through the said FORM GST DRC-03, proceedings have already been concluded by issuance of an order in FORM GST DRC-05 as per the Rule 142(3) of CGST Rules, 2017.

8.1 Currently, the above-mentioned functionality for filing of an application in FORM GST DRC-03A, is not available on the common portal. Therefore, till the time such functionality is made available on the common portal, in respect of cases where an amount of pre-deposit has been inadvertently paid through FORM GST DRC-03 instead of making the said payment through Electronic Liability Ledger-II against the demand created in the said ledger, the concerned taxpayer may intimate the proper officer about the same, and on such intimation, the proper officer may not insist on recovery for the remaining amount payable by the concerned taxpayer, till the time the said functionality of FORM GST DRC-03A is made available on the portal.

8.2 Once the functionality of FORM GST DRC-03A is made available on the portal, the concerned taxpayer may file an application in FORM GST DRC-03A, on the common portal, at the earliest, as mentioned in para 7.1 above and on doing so, the amount paid vide FORM GST DRC-03 may be adjusted against the pre-deposit under section 107 or section 112 of the CGST Act, as the case may be, as detailed in para 7.2 above. However, in case the taxpayer fails to file an application in FORM GST DRC-03A on the

common portal, the proper officer may proceed to recover the amount payable as per provisions of section 78 and section 79 of CGST Act.

9. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

10. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

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No. CCT/26-4/2024-25/G/1625

Subject: Clarification on various issues pertaining to taxability and valuation of supply of services of providing corporate guarantee between related persons.

Ref.: Circular No. 225/19/2024-GST dated 11th July, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular

(No. 18/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

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ANNEXURE

Circular No. 225/19/2024-GST

F. No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 11th July, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)

Madam/Sir,

Subject: Clarification on various issues pertaining to taxability and valuation of supply of services of providing corporate guarantee between related persons.

1.1 As per the recommendations of the GST Council, sub-rule (2) was inserted in Rule 28 of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") vide Notification No. 52/2023-Central Tax dated 26th October, 2023 to provide for a specific clause for valuation of supply of services of providing corporate guarantee to any banking company or financial institution by an entity on behalf of a related person. Besides, Circular No. 204/16/2023-GST dated 27th October, 2023 was also issued as per the recommendations of the GST Council, to provide clarity regarding the applicability of the said sub-rule. Subsequently, based on the recommendations of the GST Council, sub-rule (2) of Rule 28 of CGST Rules has been amended retrospectively with effect from 26.10.2023 vide notification No. 12/2024 dated 10th July, 2024.

1.2 In this regard, various representations have been received from trade and industry, seeking clarifications on various issues pertaining to the taxability and valuation of the supply of services of providing corporate guarantee between related persons as per the said rule.

3. Therefore, in order to ensure uniformity in the implementation of the provisions of law a cross the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues as under:

S. No.	Issue	Clarification
1	2	3
1	Whether sub-rule (2) of rule 28 of CGST Rules will apply to the corporate guarantees issued prior to insertion of the said sub-rule on 26th October 2023? Also, where intra-group corporate guarantees have been issued before 26th October 2023, which are still in force today, would they be liable to pay GST on "1% of the amount of such guarantee offered" on such guarantees?	It is to be clarified that the supply of service of providing corporate guarantee to any banking company or financial institution by a supplier to a related recipient, on behalf of the said recipient, was taxable even before the insertion of sub-rule (2) in rule 28 of CGST Rules with effect from 26th October 2023. Rule 28(2) of CGST Rules is only for determination of the value of the taxable supply of providing corporate guarantee to any banking company or financial institution by a supplier to a related recipient, on behalf of the said recipient and not regarding the taxability of the said supply itself. Prior to the insertion of the said sub-rule, i.e., before 26th October 2023, the valuation of service of providing corporate guarantee to any banking company or financial institution by a supplier to a related recipient, on behalf of the said recipient, was to be done as per the provisions of Rule 28 of CGST Rules, as it existed then. Therefore, in respect of supply of services of providing corporate guarantee between related persons, in respect of corporate guarantee issued or renewed before 26th October, 2023, the valuation of the said supply is to be done in accordance with Rule 28, as it existed during that time. However, if the corporate guarantee is issued or renewed on or after 26th October, 2023, then the valuation of the said supply will be required to be done as per Rule 28(2) of CGST Rules.
2	In cases where the corporate guarantee is provided for a particular amount, whereas the loan is only partly availed or not availed at all by the recipient, what will be the value of supply of corporate guarantee. Also, whether the recipient	The activity of supply of the service of providing a corporate guarantee is not linked with the actual disbursal of the loan. The service that is provided by the guarantor to the guarantee is that of taking on the risk of default. Therefore, it is clarified that the value of supply of the service of providing a corporate guarantee will be calculated based on the amount guaranteed and will not be based on the amount of loan actually disbursed to the recipient of the corporate guarantee. Further, it is also clarified that the recipient of the service of providing corporate guarantee shall be eligible to avail the ITC,

1	2	3
	would be eligible to avail full ITC (Input Tax Credit) even before total loan is disbursed?	subject to other conditions specified in the Act and the Rules made thereunder, irrespective of when the loan is actually disbursed to the recipient, and irrespective of the amount of loan actually disbursed.
3	In the case of takeover of existing loans, since there is merely an assignment of an already issued corporate guarantee, whether GST would be applicable again?	In the service of providing corporate guarantee to any banking company or financial institution by a supplier to a related recipient, on behalf of the said recipient, the supplier of the service is the corporate entity providing the corporate guarantee and the recipient is the related entity for whom the corporate guarantee is provided by the said supplier. Therefore, if the loan issued by the banking company/financial institution is taken over by another banking company/financial institution, the said activity of taking over of the loan does not fall under the service of providing corporate guarantee to any banking company or financial institution by a supplier to a recipient. Therefore, it is clarified that in such cases, there will be no impact on GST, unless there is issuance of fresh corporate guarantee or there is a renewal of the existing corporate guarantee. However, if the takeover of the loan is followed/ accompanied by issuance of fresh corporate guarantee, then GST would be payable on the same.
4	Where corporate guarantee is provided by more than one entity/co-guarantor, what is the amount on which GST is payable by each co-guarantor?	In cases where corporate guarantee is being provided by multiple related entities, the value of such services of providing corporate guarantee shall be the sum of the actual consideration paid/payable to co-guarantors, if the said amount of total consideration is higher than one per cent of the amount of such guarantee offered. In cases where the sum of the actual consideration is less than one per cent of the amount of such guarantee offered, then GST shall be payable by each co-guarantor proportionately on one per cent of the amount guaranteed by them. For instance, if there are two co-guarantors, A and B, who jointly provide a corporate guarantee to a banking/financial institution on behalf a related recipient C for Rs. 1 crore, then A and B shall each pay GST on 0.5% of the amount guaranteed. However, if in the above case of A and B providing corporate guarantee jointly to a banking/financial institution on behalf a related recipient C for Rs 1 crore, A provides guarantee for 60% of the guarantee amount and B provides guarantee for the remaining 40% of the guaranteed amount, then GST shall be payable by A and B proportionately i.e., 0.6% and 0.4% of the amount guaranteed. This is to say that A shall pay GST on 1% of the amount guaranteed by A, i.e., 1% on Rs. 60 lakhs and B shall pay GST on 1% of the amount guaranteed by B, i.e., 1% on Rs. 40 lakhs.
5	Where intra-group corporate guarantee is issued, whether GST may be paid by the recipient	It is clarified that in cases where domestic corporates issue intra-group guarantees, GST is to be paid under forward charge mechanism, and invoice is to be issued by the supplier of the service of providing corporate guarantee to the related recipient

1	2	3
	under reverse charge, as in the absence of actual invoice and payment, the recipient entity may not be able to claim input tax credit of tax paid by the domestic guarantor?	under Section 31 of CGST Act, 2017 read along with the relevant rules. However, in cases where such guarantee is provided by the foreign/overseas entity for a related entity located in India, then GST would be payable under reverse charge mechanism, by the recipient of service, i.e., the related entity located in India.
6	Whether the discharge of tax liability on corporate guarantee @ 1% of such guarantee offered is to be done one time or on yearly basis or on monthly basis and when issued for a fixed term of say, five years or ten years as per tenure of the loan?	Rule 28(2) of CGST Rules has been amended retrospectively with effect from 26th October, 2023, vide notification No. 12/2024-CT dated 10-07-2024. Therefore, it is clarified that the value of supply of the service of providing corporate guarantee to a banking company or a financial institution on behalf of a related recipient shall be one per cent of the amount guaranteed per annum or the actual consideration, whichever is higher. Accordingly, the value of supply of the service of providing corporate guarantee to a banking company or a financial institution on behalf of a related recipient for a particular number of years shall be one per cent of the amount of such guarantee offered multiplied by the number of years for which the said guarantee is offered or the actual consideration whichever is higher. In addition to the above, in cases where the corporate guarantee is provided for a period less than a year, say 6 months (half a year), then in those cases as well, the valuation may be done on proportionate basis for the said period, i.e., in this case, the value of the said supply of services may be taken as half of one per cent of the amount of such guarantee offered (6/12 * one per cent), or the actual consideration, whichever is higher. To illustrate the same, if a corporate guarantee is issued for a period of say five years, then the value of such guarantee is to be calculated at one per cent per year of the amount of such guarantee offered, or the actual consideration, whichever is higher, i.e., the value of such corporate guarantee provided would be 5% of the amount guaranteed or the actual consideration, whichever is higher. Therefore, GST would be payable on such amount at the time of issuance of such corporate guarantee, i.e., 5% of the amount guaranteed or the actual consideration, whichever is higher. However, if a corporate guarantee is issued, say for a period of one year and is renewed five times, for a period of one year each, then tax would be payable on one per cent of the amount of such guarantee offered, or the actual consideration, whichever is higher, on the issue of such corporate guarantee in the first year as well as on every renewal in subsequent years.
7	Whether the benefit of second proviso to sub-rule (1), which states that value declared in invoice	Proviso has been inserted in sub-rule (2) of Rule 28 of CGST Rules, retrospectively with effect from 26th October, 2023 vide notification No. 12/2024-CT dated 10-07-2024, similar to that provided in the second proviso to sub-rule (1) of Rule 28 of CGST

1	2	3
	is deemed to be the open market value in cases where full input tax credit is available to the recipient of services, is not applicable in cases falling under sub-rule (2)?	Rules, to provide the benefit in cases involving supply of service of corporate guarantees provided between related persons. Accordingly, it is clarified that in cases involving the supply of service of corporate guarantees provided between related persons, where full input tax credit is available to the recipient of services, the value declared in the invoice shall be deemed to be the value of supply of the said service.
8	Whether the valuation in terms of Rule 28(2) of CGST Rules will apply to the export of the service of providing corporate guarantee between related persons?	As per the amendment done in sub-rule (2) of Rule 28 of CGST Rules retrospectively w.e.f. 26th October, 2023 vide notification No. 12/2024-CT dated 10-07-2024, the provisions of the said sub-rule will not apply in cases where the recipient of the services of providing corporate guarantee between related persons is located outside India. Accordingly, the provisions of the said sub-rule shall not apply to the export of the services of providing corporate guarantee between related persons.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulties, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

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No. CCT/26-4/2024-25/G/1626

Subject: Mechanism for refund of additional Integrated Tax (IGST) paid on account of upward revision in price of the goods subsequent to export–reg.

Ref.: Circular No. 226/20/2024-GST dated 11th July, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular

(No. 19/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

ANNEXURE

Circular No. 226/20/2024-GST

F. No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 11th July, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)

Madam/Sir,

Subject: Mechanism for refund of additional Integrated Tax (IGST) paid on account of upward revision in price of the goods subsequent to exports–reg.

Representations have been received from trade/industry requesting for prescribing a mechanism for seeking refund of additional IGST paid on account of upward revision in price of goods subsequent to export. It has been represented that there are cases where the price of export goods needs to be revised, subsequent to their exports, due to various reasons such as linking of the prices of the export commodities to some international index or as per the terms of contract between the two parties etc. In such cases, where there is upward revision in price of goods subsequent to exports, the exporter is required to pay additional IGST on account of upward price revision along with applicable interest but there exists no mechanism for allowing them to claim refund of such additional IGST paid.

2. In order to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by Section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby lays down the following procedure for claim and processing of refunds of additional integrated tax paid on account of upward revision in prices of goods subsequent to their exports.

3. Filing of refund claim for additional IGST paid on account of upward revision of prices of export goods, subsequent to export:

3.1 The refund of IGST paid on account of export of goods is processed by the proper officer of Customs in an automated manner without manual intervention in terms of provision of Rule 96 of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules"). However, there exists no mechanism for processing of refunds of any additional integrated tax paid on account of upward revision in price of goods, subsequent to exports, by the proper officer of customs. Therefore, it has been decided that such exporter may file an application for refund of such additional IGST paid in FORM GST RFD-01 electronically on the common portal and such application for refunds would be processed by the jurisdictional GST officer of the concerned exporter. Accordingly, CGST Rules have been amended vide Notification No. 12/2024-CT dated 10-07-2024 to provide for filing of such refund application in FORM GST RFD-01, which shall be dealt with in accordance with provisions of rule 89 of CGST Rules.

3.2 GSTN is in the process of development of a separate category of refund in FORM GST RFD-01, for filing an application of refund of such additional IGST paid. However, till the time such separate category for claiming refund of additional amount of IGST paid is developed on the common portal, such exporter(s) may claim refund of the additional IGST paid on account of upward revision in price of goods subsequent to exports, by filing an application of refund in FORM GST RFD-01 under the category "Any other" with remarks "*Refund of additional IGST paid on account of increase in price subsequent to export of goods*" along with the relevant documents as prescribed in Clause (bb) of sub-rule (2) of Rule 89 of the CGST Rules. The exporter shall also upload the statements 9A & 9B as prescribed in Clause (bb) & Clause (bc) of sub-rule (2) of Rule 89 of the CGST Rules along with the said refund claim. The exporter may also upload any other document to establish that the refund is admissible to him.

3.3 The said refund application shall be processed based on the documentary proof submitted by the refund applicant. Further, the validated details of shipping bills, amount of IGST involved in such shipping bills, as well as the amount of IGST refund sanctioned by the customs under Rule 96(3) of CGST Rules will also be made available to jurisdictional GST officers by GSTN to enable them to process such refund claims of additional IGST paid.

4. Minimum Refund Amount: Sub-section (14) of Section 54 of the CGST Act provides that no refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if amount is less than one thousand rupees. Therefore, no such refund shall be paid if the amount claimed is less than one thousand rupees.

5. Time limit for filing refund: Sub-rule (1B) of Rule 89 of CGST Rules, inserted vide Notification No. 12/2024-CT dated 10-07-2024, provides that the application for refund of additional IGST paid can be filed before the expiry of two years from the relevant date as per Clause (a) of Explanation (2) of Section 54 of the CGST Act. However, in cases, where the relevant date as per Clause (a) of Explanation (2) of Section 54 of the CGST Act was before the date on which sub-rule (1B) of Rule 89 of CGST Rules has come into force, such refund application can be filed before the expiry of a period of two years from the date on which the said sub-rule has come into force.

6. The following documents are required to be accompanied with the refund claim in order to establish that refund is due to such exporter:

(a) Copy of shipping bill or bill of exports;

(b) Copy of original invoices;

(c) Copy of contract/other document(s), as applicable, indicating requirement for the revision in price of such goods subsequent to exports;

(d) Copy of the original invoices as well as relevant debit note(s)/supplementary invoices;

(e) Proof of payment of additional IGST and applicable interest and details of the relevant FORM GSTR-1/FORM GSTR-3B furnished by the applicant in which the said debit note(s)/ supplementary invoice(s) were declared and tax and interest thereon had been paid by the applicant;

(f) Proof of receipt of remittance of additional foreign exchange (FIRC) issued by Authorised Dealer-I banks;

(g) A certificate of a practising chartered accountant or a cost accountant certifying therein that the said additional foreign exchange remittance is on account of such upward revision in price of the goods subsequent to export;

(h) Statement 9A of FORM GST RFD 01; and

(i) Statement 9B of FORM GST RFD 01.

7. The proper officer while processing such refund claim shall verify that the exporter has duly reported the details of the export invoice and the debit note in his statement of outward supplies in FORM GSTR-1 and has duly paid such additional amount of IGST along with applicable interest for which refund is being sought in their FORM GSTR-3B return. The proper officer while ascertaining the eligibility of the refund to the exporter shall verify the revised value declared by the exporter in his FORM GSTR-1/FORM GSTR-3B and details of foreign exchange remittances received thereof.

8. The proper officer shall scrutinize the application with respect to its completeness and eligibility and only if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall proceed to issue the refund sanction order in FORM GST RFD-06 and the payment order in FORM GST RFD-05. The proper officer shall also upload a detailed speaking order along with the refund sanction order in FORM GST RFD-06 in terms of Instruction No. 03/2022-GST dated 14-06-2022.

9. Further, there may be certain cases where there is downward revision in price of goods subsequent to exports, when the export has been made with payment of IGST. In all such cases, the supplier of goods/exporter is required to deposit the refund of the IGST received in proportion to the reduction in price of exported goods, along with applicable interest. The proper officer while granting the refund as per para 8 above, shall also verify whether the exporter has deposited the excess refund amount in the cases where there is a downward revision in price of goods subsequent to exports, during the relevant tax period, if any.

10. It is requested that suitable trade notices may be issued to publicize the contents of this Circular. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

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No. CCT/26-4/2024-25/G/1627

Subject: Processing of refund applications filed by Canteen Stores Department (CSD)–regarding.

Ref.: Circular No. 227/21/2024-GST dated 11th July, 2024 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular
(No. 20/2024-25-GST)

The GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

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ANNEXURE

Circular No. 227/21/2024-GST

F. No. CBIC-20001/4/2024-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 11th July, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
Commissioners of Central Tax (All)
The Principal Directors General/Directors General (All)
The Principal Chief Controller of Accounts, CBIC

Madam/Sir,

Subject: Processing of refund applications filed by Canteen Stores Department (CSD)–regarding

The Central Government, vide Notifications No. 06/2017-Central Tax (Rate), No. 06/2017-Integrated Tax (Rate) and No. 06/2017-Union territory Tax (Rate), all dated 28th June, 2017, had specified the Canteen Stores Department ("CSD" for short), under the Ministry of Defence, as a person who shall be

entitled to claim a refund of fifty per cent of the applicable central tax, integrated tax and Union territory tax paid by the CSD on all inward supplies of goods received by the CSD for the purposes of subsequent supply of such goods to their Unit Run Canteens or to their authorized customers. Further, vide Circular No. 60/34/2018-GST dated 04-09-2018, the manner and procedure for filing and processing of such refund claims was specified so as to ensure that the CSD shall apply for refund by filing an application manually to the jurisdictional tax office till the time the online utility for filing such refund claim is made available on the common portal.

2. In order to enable such CSD to file application for refund electronically, a new functionality has been made available on the common portal which allows CSD to apply for refund by filing an application electronically on the common portal. Further, Central Goods and Service Tax Rules, 2017 (hereinafter referred to as 'CGST Rules') have been amended and a new Rule 95B and FORM GST RFD-10A have been inserted in CGST Rules vide Notification No. 12/2024-Central Tax dated 10-07-2024.

3. In order to ensure uniformity in the implementation of the provisions of law across field formations, the Board, in exercise of its powers conferred by Section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby lays down the following revised procedure for electronic submission and processing of refund application by CSD, in accordance with Section 55 of CGST Act, in supersession of Circular No. 60/34/2018-GST dated 04-09-2018.

4. Filing of refund application:

The CSD, who wants to wants to file an application for refund under Section 55 of CGST Act, in cases where the refund is claimed of fifty per cent of the applicable central tax, integrated tax and Union territory tax paid by the said CSD on all inward supplies of goods received by it, for the purposes of subsequent supply of such goods to its Unit Run Canteens or to its authorized customers, shall file an application for refund in FORM GST RFD-10A electronically on the common portal and the same shall be processed electronically. The refund to be granted to the CSD shall be based on the invoices of the inward supplies of goods received by it for the purposes of subsequent supply of such goods to its Unit Run Canteens or to its authorized customers.

5. Filing of refund claim by CSD:

The CSD may apply for refund with the jurisdictional Central tax/State tax authority to whom the CSD has been assigned. In terms of Rule 95B of the CGST Rules, the CSD is required to apply for refund once in every quarter. The CSD will also be allowed to file the refund application for multiple quarters, clubbing multiple FYs, as per their option. The refund of the tax paid by the CSD shall be available only if the inward supplies of goods were received from a registered person against a tax invoice and details of such supplies have been furnished by the said registered person in his details of outward supply in FORM GSTR-1 and the said supplier has furnished his return in FORM GSTR-3B for the concerned tax period. The CSD while filing the refund application shall ensure that all the invoices declared by it have the GSTIN of the supplier and the GSTIN of the respective CSD clearly mentioned on them. The said refund application form shall be accompanied with the following documents:

(i) An undertaking stating that the goods on which refund is being claimed have been received by the CSD for the purposes of subsequent supply of such goods to its Unit Run Canteens or to its authorized customers; and

(ii) A declaration stating that no refund has been claimed earlier against the invoices on which the refund is being claimed.

6. Relevant date for filing of refund:

As per sub-section (2) of Section 54 of the CGST Act, a person notified under Section 55 of the CGST Act, can file the application for refund of tax paid by it on inward supplies of goods or services or both, before the expiry of two years from the last day of the quarter in which such supply was received. Therefore, as the CSD have been notified under Section 55 of CGST Act vide notifications No. 06/2017-Central Tax (Rate), No. 06/2017-Integrated Tax (Rate) and No. 06/2017-Union territory Tax (Rate), all dated 28th June, 2017, as a person entitled to claim a refund of fifty per cent of the applicable central tax, integrated tax and Union territory tax paid by it on all inward supplies of goods received for

the purposes of subsequent supply of such goods to its Unit Run Canteens or to its authorized customers, the CSD can file the refund of fifty per cent of tax paid on such inward supplies of goods before expiry of two years from the last day of the quarter in which such supply was received.

7. Processing and sanction of the refund claim:

7.1 The proper officer shall process the refund claim filed by the CSD in a manner similar to the refund claims filed in FORM GST RFD-01 under the provisions of Rule 89 of CGST Rules. The proper officer while processing the refund application shall validate the GSTIN details of the CSD on the common portal to ascertain whether all the returns in FORM GSTR-1 and FORM GSTR-3B, which were due to be furnished on or before the date on which the refund application is being filed, have been filed. The proper officer may scrutinize the details contained in FORM RFD-10A, FORM GSTR-3B and FORM GSTR-2B, for processing the said refund claim. The proper officer shall also verify whether the details of the invoices for which refund has been claimed by the CSD, have been furnished by the concerned supplier in his details of outward supply in FORM GSTR-1 and the said supplier has furnished his return in FORM GSTR-3B for the concerned tax period.

7.2 Further, the proper officer shall ensure that the amount of refund sanctioned is not more than 50% of the central tax, state tax, Union territory tax and integrated tax paid on the supplies received by CSD. It may be noted that the invoices uploaded by the CSD while filing will be validated on the portal with FORM GSTR 2B of the applicant and only the validated invoices will be allowed in the application. The invoices for which refund has already been availed by the CSD will be flagged in the system and will not be allowed for the refund. The Table in Sl. No. 7 of FORM GST-RFD 10A will be auto-populated on the portal based on the 50 % of the amount of respective tax (central tax, state tax, Union territory tax and integrated tax) as per the Col. 8, 9 and 10 of the Table in Sl. No. 6 of FORM GST-RFD 10A.The Table in Sl. No. 7 of FORM GST-RFD 10A shall be kept editable downwards, i.e., the CSD will be able to make a downward revision in the auto-populated amount in the said Table and cannot enhance the auto-populated amount in the said Table. The proper officer shall also verify whether the ITC in respect of such inward supplies of goods received for the purposes of subsequent supply of such goods to its Unit Run Canteens or to its authorized customers has been reversed by the CSD as clarified in Circular No. 170/02/2022-GST dated 06 July, 2022.

7.3 The proper officer shall scrutinize the application with respect to completeness and eligibility of the refund claim to his satisfaction and issue the order in FORM GST RFD-06 accordingly. The proper officer shall also upload a detailed speaking order along with the said order in FORM GST RFD-06.

8. It is also mentioned that the provisions of the Circular No. 60/34/2018-GST dated 04-09-2018 shall continue to apply for all refund applications filed manually before the amendments in CGST Rules mentioned in Para 2 above and before the said functionality being made available on the common portal. The said applications filed manually shall continue to be processed manually, according to the earlier circular.

9. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

10. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

Sd/- (Sanjay Mangal), Principal Commissioner (GST).

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No. CCT/26-4/2024-25/G/1628

Subject: Clarifications regarding applicability of GST on certain services-reg.

Ref.: Circular No. 228/22/2024-GST dated 15th July, 2024 issued under Central Goods and Services Tax Act, 2017 by the Tax Research Unit, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular

(No. 21/2024-25-GST)

The Tax Research Unit, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the Tax Research Unit, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

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ANNEXURE

Circular No. 228/22/2024-GST

F. No. CBIC-190354/94/2024-TO(TRU-II)-CBEC
Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)

North Block, New Delhi
Dated the 15th July, 2024

To,

The Principal Chief Commissioners/Chief Commissioners/
/Principal Commissioners/Commissioners of Central Tax (All)/
/The Principal Director Generals/Director Generals (All)

Madam/Sir,

Subject: Clarifications regarding applicability of GST on certain services–reg.

In exercise of the powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 and on the recommendations of the 53rd GST Council in its meeting held on 22nd June, 2024, at New Delhi, clarifications, related to the following issues are being issued through this circular:

i. GST exemption on the outward supplies made by the Ministry of Railways (Indian Railways).

ii. GST exemption on the transactions between Special Purpose Vehicles (SPVs) and Ministry of Railways (Indian Railways).

iii. Applicability of GST on the statutory collections made by the Real Estate Regulatory Authority (RERA) in accordance with the Real Estate (Regulation and Development) Act, 2016.

iv. Applicability of GST on the incentive amount shared by acquiring bank with other stakeholders in the digital payment ecosystem under the notified Incentive Scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions.

v. GST liability on the reinsurance of specified general and life insurance schemes.

vi. GST liability on the reinsurance of insurance schemes for which total premium is paid by the Government.

vii. Applicability of GST on retrocession services.

viii. GST liability on certain accommodation services.

2. GST exemption on the outward supplies made by Ministry of Railways (Indian Railways).

2.1 Based on the request of Ministry of Railways (Indian Railways) and recommendations of the 52nd GST Council meeting held on 07-10-2023, all supplies of goods and services made by Ministry of

Railways (Indian Railways) were brought under Forward Charge Mechanism and consequently exemptions that were available to Ministry of Railways (Indian Railways) were withdrawn vide notification No. 13/2023-CT(R) dated 19-10-2023 w.e.f. 20-10-2023.

2.2 However, Ministry of Railways had brought out certain difficulties in implementation of the above said notification and matter was examined by the 53rd GST Council in its meeting held on 22nd June, 2024.

2.3 GST Council has recommended to exempt the services provided by Ministry of Railways (Indian Railways) to general public viz., sale of platform tickets, facility of retiring rooms/waiting rooms, cloak room services and battery-operated car services. GST council has also recommended to exempt the supply of services made between various zones/divisions under Ministry of Railways (Indian Railways). Notification No. 04/2024-CT(R) dated 12-07-2024 has been issued in this regard and effective date of implementation of the said notification is 15-07-2024.

2.4 The GST Council in its 53rd meeting has also recommended to regularize GST liability for the intervening period i.e. from 20-10-2023 to 14-07-2024 on 'as is where is' basis.

2.5 Therefore, as recommended by the 53rd GST Council, the GST on the services provided by Ministry of Railways (Indian Railways) to general public viz., sale of platform tickets, facility of retiring rooms, cloak room services and battery-operated car services and supply of services made between various zones/divisions under Ministry of Railways (Indian Railways) is hereby regularized on 'as is where is' basis from 20-10-2023 to 14-07-2024.

3. GST exemption on the transactions between Special Purpose Vehicles (SPVs) and Ministry of Railways (Indian Railways).

3.1 Based on the recommendations of the 48th GST Council meeting held on 17-12-2022, it was clarified to Ministry of Railways (Indian Railways) that supply of services by SPVs to Ministry of Railways (Indian Railways) by way of allowing Indian Railways to use infrastructure built and owned by them during the concession period against consideration and maintenance services supplied by Ministry of Railways (Indian Railways) to SPVs are taxable.

3.2 However, Ministry of Railways had brought out certain difficulties faced in implementation of the said recommendations of the 48th GST Council and matter was examined by the 53rd GST Council in its meeting held on 22nd June, 2024.

3.3 GST Council has recommended to exempt the supply of service by SPVs to Ministry of Railways (Indian Railways) by way of allowing Indian Railways to use the infrastructure built and owned by SPVs during the concession period against consideration and maintenance services supplied by Ministry of Railways (Indian Railways) to SPVs from GST. Notification No. 4/2024 CT(R) dated 12-07-2024 has been issued in this regard.

3.4 The GST Council in its 53rd meeting has also recommended to regularize the past period in respect of such transactions for the period from 01-07-2017 to 14-07-2024 on 'as is where is basis.

3.5 Thus, as recommended by the 53rd GST Council, GST on the supply of services by SPVs to Ministry of Railways (Indian Railways) by way of allowing it to use infrastructure built and owned by them during the concession period against consideration and maintenance services supplied by Ministry of Railways (Indian Railways) to SPVs in relation to such use of infrastructure built and owned by SPVs during the concession period against consideration is hereby regularized for the period from 01-07-2017 to 14-07-2024 on 'as is where is' basis.

4. Applicability of GST on the statutory collections made by the Real Estate Regulatory Authority (RERA) in accordance with the Real Estate (Regulation and Development) Act, 2016.

4.1 Representation has been received requesting for clarification on whether GST is applicable on the statutory collections made by the Real Estate Regulatory Authority (RERA).

4.2 RERA is constituted under the Real Estate (Regulation and Development) Act, 2016. RERA performs function of regulating the real estate development and construction of the building entrusted to them which fall under Entry No. 1 and 2 of the Twelfth Schedule of the Indian Constitution.

4.3 RERA is a governmental authority' as per the definition in the exemption notification No. 12/2017--CT(R) dated 28-06-2017 and is covered under the scope of entry at Sr. No. 4 of notification No. 12/2017--CT(R) dated 28-06-2017.

4.4 GST Council in its 53rd meeting has recommended to clarify that statutory collections made by RERA are covered under the Sl. No. 4 of notification No. 12/2017-CT(R) dated 28-06-2017.

4.5 Thus, as recommended by the 53rd GST Council, it is hereby clarified that statutory collections made by RERA are covered under the Sl. No. 4 of notification No. 12/2017-CT(R) dated 28-06-2017.

5. Applicability of GST on the incentive amount shared by acquiring banks with other stakeholders in the digital payment ecosystem under the notified Incentive Scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions.

5.1 Representation has been received requesting for clarification on whether GST is applicable on the incentive amount shared by acquiring banks with other stakeholders in the digital payment ecosystem under the notified Incentive Scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions.

5.2 Under the notified Incentive Scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions, the Ministry of Electronics and Information Technology (MeitY) pays the acquiring banks an incentive as a percentage of the value of the transactions up to two thousand rupees. Applicability of GST on the incentive paid by the MeitY to acquiring banks under the notified Incentive Scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions was examined in the 48th GST Council meeting held on 17th December, 2022 and based on the recommendations of the GST Council meeting, it was clarified by Circular No. 190/02/2023-GST dated 13th January, 2023, that incentives paid by MeitY to acquiring banks under the said scheme are in the nature of subsidy and thus, not taxable.

5.3 The Gazette Notifications dated 17th December, 2021 and 14th January, 2023 issued by MeitY state that the incentives will be shared by the acquiring banks with other payment system participants and the payment system operator, in the proportion and manner decided by the National Payments Corporation of India (NPCI) in consultation with the participating banks. MeitY pays the incentive to the acquiring bank and it is further shared by the acquiring bank with the issuer bank. Issuer bank further shares the incentive with the Payer Payment Service Provider (PSP), which are typically banks, and the UPI app.

5.4 The share of incentive paid by the acquiring bank to the issuer bank and further shared by the issuer bank to the Payer PSPs and the UPI app are decided by the NPCI in consultation with participating banks. Payer PSPs may choose to further share this incentive with Third Party App Providers (TPAP). However, the proportion of the incentive shared by Payer PSPs with TPAPs is not being decided by NPCI in consultation with the participating banks for Financial Years 2021-22 and 2022-23 and was determined by the business agreement between the Payer PSPs and TPAP.

5.5 GST Council in its 53rd meeting held on 22nd June, 2024 has recommended to clarify that further sharing of the incentive amount by the acquiring bank with other stakeholders, up to the point where the incentive is distributed in the proportion and manner as decided by NPCI in consultation with the participating banks under the notified Incentive Scheme, is in the nature of a subsidy and thus, not taxable.

5.6 Thus, as recommended by the 53rd GST Council, it is hereby clarified that further sharing of the incentive amount by the acquiring bank with other stakeholders, up to the point where the incentive is distributed in the proportion and manner as decided by NPCI in consultation with the participating banks under the notified Incentive Scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions, is in the nature of a subsidy and is thus, not taxable.

6. GST liability on the reinsurance of specified general and life insurance schemes.

6.1 Representations have been received to either exempt or regularize the GST liability, for the period from 01-07-2017 to 24-01-2018, on reinsurance of specified general insurance and life insurance schemes, which are exempt from GST.

6.2 Certain specified general insurance and life insurance schemes are exempt from GST under Sr. Nos. 35 and 36 of notification No. 12/2017-CT(R) dated 28-06-2017. Vide entry at Si. No. 36A of the said notification, reinsurance of the aforesaid exempted insurance schemes has also been exempted w.e.f. 25-01-2018.

6.3 GST Council in its 53rd meeting held on 22nd June, 2024 has recommended to regularize the GST liability on such reinsurance of exempt general insurance and life insurance schemes for the past period, i.e. from 01-07-2017 to 24-01-2018, on 'as is where is' basis.

6.4 Thus, as recommended by the GST Council, GST liability on the services by way of reinsurance of the insurance schemes specified in Sr. Nos. 35 and 36 of notification No. 12/2017 CT(R) dated 28-06-2017 is regularized for the period from 01-07-2017 to 24-01-2018 on 'as is where is' basis.

7. GST liability on the reinsurance of insurance schemes for which total premium is paid by the Government.

7.1 Representations have been received to exempt GST, for the period from 01-07-2017 to 26-07-2018, on reinsurance of those insurance schemes for which total premium is paid by the Government.

7.2 Services provided to the Central Government, State Government, or Union Territory under any insurance scheme for which total premium is paid by the Central Government, State Government, or Union Territory are exempt from GST under Sl. No. 40 of notification No. 12/2017-CT(R) dated 28-06-2017. Vide entry at Sl. No. 36A of the said notification, re-insurance of the aforesaid insurance schemes has been prospectively exempted w.e.f. 27-07-2018.

7.3 GST Council in its 53rd meeting held on 22nd June, 2024 has recommended to regularize the GST liability on such reinsurance of Government sponsored insurance schemes for the past period, i.e. from 01-07-2017 to 26-07-2018, on 'as is where Is' basis.

7.4 Thus, as recommended by the GST Council, GST liability on the services by way of reinsurance of insurance services covered under Sl. No. 40 of notification No. 12/2017-CT(R) dated 28-06-2017 is regularized for the period from 01-07-2017 to 26-07-2018 on 'as is where is' basis.

8. Applicability of GST on retrocession services.

8.1 Representations have been received to clarify whether the term 'reinsurance' as mentioned in SI. No. 36A of notification No. 12/2017-CT(R) dated 28-06-2017 includes 'retrocession'.

8.2 The matter was placed before the GST Council in its 53rd meeting held on 22nd June, 2024. As per the IRDAI (Re-insurance) Regulations, 2018, 'Retrocession' means a re-insurance transaction whereby a part of assumed reinsured risk is further ceded to another Indian Insurer or a CBR (Cross Border Re-insurer). Accordingly, the GST Council has recommended to clarify that reinsurance includes retrocession services.

8.3 Thus, as recommended by the GST Council, it is hereby clarified that the term 'reinsurance' as mentioned in Sl. No. 36A of notification No. 12/2017-CT(R) dated 28-06-2017 includes 'retrocession' services.

9. GST liability on certain accommodation services.

9.1 Representations have been received requesting to clarify whether service by way of hostel accommodation, service apartments/hotels booked for longer period is a service of renting of residential dwelling for use as residence and exempted under entry at Sl. No. 12 of notification

No. 12/2017-CTR dated 28-06-2017. Requests have also been received for GST exemption on hostels for poor and middle-class students run by charitable trusts.

9.2 The matter was placed before the GST Council in its 53rd meeting held on 22nd June, 2024 and the GST Council recommended to exempt the supply of accommodation services having value of supply less than or equal to twenty thousand rupees per person per month provided that the accommodation service is supplied for a minimum continuous period of ninety days. The same has been exempted w.e.f. 15-07-2024 vide notification No. 4/2024-CT(R) dated 12-07-2024.

9.3 In its 53rd meeting, the GST Council further recommended extending the benefit for past cases provided that value of supply of accommodation services supplied was less than or equal to twenty thousand rupees per person per month and that the accommodation service was supplied for a minimum continuous period of ninety days.

9.4 Thus, as recommended by the GST Council, GST liability on the supply of accommodation services is regularized on 'as is where is' basis for the period from 01-07-2017 to 14-07-2024 where value of supply of the accommodation service is less than or equal to twenty thousand rupees per person per month and the said accommodation service was supplied for a minimum continuous period of ninety days.

10. Difficulties, if any, in the implementation of this circular may be brought to the notice of the Board.

Yours faithfully,

(Limatula Yaden)
Joint Secretary (TRU)

No. CCT/26-4/2024-25/G/1629

Subject: Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 53rd meeting held on 22nd June, 2024, at New Delhi–reg.

Ref.: Circular No. 229/23/2024-GST dated 15th July, 2024 issued under Central Goods and Services Tax Act, 2017 by the Tax Research Unit, Department of Revenue, Ministry of Finance, Government of India, New Delhi.

Circular
(No. 22/2024-25-GST)

The Tax Research Unit, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi has issued the above referred Circular.

For the uniformity in implementation and in exercise of the powers conferred under Section 168 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) it is hereby directed that the Said Circular issued by the Tax Research Unit, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India shall be applicable, *mutatis mutandis*, in implementation of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017).

A copy of the above referred Circular is attached herewith as Annexure.

Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

Given under the seal of this office.

S. S. Gill, IAS, Commissioner of State Taxes, Goa.

Panaji, 30th July, 2024.

ANNEXURE

Circular No. 229/23/2024-GST

F. No. 190354/94/2024-TO(TRU-II) CBEC
Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)

North Block, New Delhi
Date: 15th July, 2024

To

The Principal Chief Commissioners/Principal Directors General,
The Chief Commissioners/Directors General,
The Principal Commissioners/Commissioners of Central Excise & Central Tax

Subject: Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 53rd meeting held on 22nd June, 2024, at New Delhi-reg.

Madam/Sir,

Based on the recommendations of the GST Council in its 53rd meeting held on 22nd June, 2024, at New Delhi, in exercise of the powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017, clarifications on the following issues are being issued through this Circular as under:

2. Clarification regarding GST rate on Solar Cookers:

2.1 Representations have been received seeking clarification regarding appropriate classification and applicable GST rate on supply of solar cookers that work on dual energy source.

2.2 On the recommendations of GST Council, it is hereby clarified that solar cookers that work on dual energy of solar energy and grid electricity are appropriately classifiable under heading 8516 and already attract a GST rate of 12% *vide* Sl. No. 201A of Schedule II of notification No. 1/2017-Central Tax (Rate) dated the 28th June, 2017.

3. Clarification regarding GST rate on Tire Water Sprinklers:

3.1 Representations have been received seeking clarification as to whether the existing entry covering sprinkles at 12% GST rate also cover Fire Water Sprinklers.

3.2 On the recommendations of the Council, it is hereby clarified that all types of sprinklers, including fire water sprinklers attract GST at the rate of 12% *vide* Sr. No. 195 B of Schedule II of notification No. 1/2017-Central Tax (Rate) dated the 28th June, 2017.

3.3 Further, on the basis of the recommendation of the GST Council, in view of the prevailing genuine doubts, the issues for the past period are regularized on "as is where is basis".

4. Clarification regarding GST rate on parts of Poultry-keeping machinery:

4.1 Representations have been received seeking clarification regarding appropriate classification and applicable GST rate on supply of 'parts' of Poultry-keeping machinery.

4.2 Parts of Poultry-keeping machinery are classifiable under tariff item 8436 91 00 and attract GST at the rate of 12% *vide* Sl. No. 199 of Schedule II of notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017. On the recommendations of the Council, to bring clarity on the issue, the relevant entry at Sl. No. 199 of Schedule II of notification No. 1/2017-Central Tax (Rate) dated the 28th June, 2017, has been amended *vide* notification No. 2/2024-Central Tax (Rate), dated the 12th July, 2024 to specifically include 'parts' of Poultry-keeping machinery.

4.3 Further, on the basis of the recommendation of the GST Council, in view of the prevailing genuine doubts, the issues for the past period are regularized on "as is where is basis".

5. Clarification regarding the scope of expression 'pre-packaged and labelled' for supply of agricultural farm produce:

5.1 Representations have been received seeking clarification regarding the scope of expression 'pre-packaged and labelled' for the purposes of levy of GST on supply of agricultural farm produce in view of amendment made in Legal Metrology (Packaged Commodities) Rules, 2011.

5.2 On the basis of the recommendation of the GST Council, the definition of 'pre-packaged and labeled' in notification No. 1/2017-Central Tax (Rate) and notification No. 2/2017-Central Tax (Rate), both dated the 28th June, 2017, has been amended *vide* notification No. 2/2024-Central Tax (Rate) dated 12th July, 2024 and notification No. 3/2024-Central Tax (Rate) dated 12th July, 2024, respectively, to exclude the supply of agricultural farm produce in package(s) of commodities containing quantity of more than 25 kilogram or 25 litre from the scope of 'pre-packaged and labelled'. Consequently, supply of agricultural farm produce in package(s) containing quantity of more than 25 kilogram or 25 litre will not attract GST levy of 5%.

5.3 Further, on the basis of the recommendation of the GST Council, in view of the prevailing genuine doubts, the issues for the past period are hereby regularized on "as is where is" basis.

6. Clarification regarding supplies of goods made to or by agency engaged by Government:

6.1 Prior to 17th July, 2022, supplies of pulses and cereals attracted GST at rate of 5%, wherein the said goods were put up in a unit container and bearing a registered brand name and/or bearing a brand name on which an actionable claim or enforceable right in a court of law is available.

6.2 On the basis of the recommendation of the GST Council, in view of the genuine interpretational issues, the issues for the past period from 01-07-2017 up to 17-07-2022 are hereby regularized on "as is where is" basis for supplies made to or by any agency engaged by Union Government or State Government/Union Territory for procurement and sale of such goods under any programme/scheme duly approved by the Central Government or any State Government intended to distribute such goods at free of cost or at subsidized rate to the eligible beneficiaries like economically weaker sections of the society subject to following conditions, namely:-

a. the concerned supplier furnishes a certificate from an officer not below the rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union Territory concerned recommending that supplies have been made to or by an agency engaged by Union Government or State Government/Union Territory for procurement and sale of such goods under any programme/scheme duly approved by the Central Government or any State Government intended to distribute such goods at free of cost or at subsidized rate to the eligible beneficiaries like economically weaker sections of the society, within a period of 180 days from the date of issuance of this Circular to the jurisdictional commissioner of the Central Tax or jurisdictional commissioner of the State Tax, or jurisdictional officer of the Union Territory Tax, as the case maybe; and

b. Input Tax Credit shall not be allowed on such inputs and, if availed on such inputs, it shall be reversed within a period of 180 days from the date of issuance of this Circular, if the supplier intends to take the benefit under the proposed regularisation.

7. Difficulty, if any, in the implementation of this circular may be brought to the notice of the Board.

Yours faithfully,

(Limatula Yaden)
Joint Secretary (TRU)
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